

**SHORT TERM LET LICENSING POLICY**

**DECEMBER 2022**

# Section 1 INTRODUCTION

# 1.1 Purpose and Aims of the Policy

This policy statement outlines how Falkirk Council will operate the short-term lets licensing scheme.

The overall aim of this Policy is to ensure Falkirk Council has a licensing scheme which:

* + - aligns with the Scottish Government’s overall policy objectives for the licensing of short-term lets:
    - is shaped to the Council’s local policies and the needs and circumstances of Falkirk; and
    - is efficient, effective, and proportionate to the issues faced by residents.

**1.2 Policy Objectives**

The aims of this policy will be achieved through the following objectives:

* Regulate Short Term Let business activity.
* Ensure properties meet the basic safety and property condition standards set out by the licence conditions.
* Reduce anti-social behaviour within local communities.
* Use of online and digital verification, for example, through photo and video evidence instead of a visit.
* Take a proportionate, risk-based approach to checks and verification, for example, when and how often visits to premises are needed.
* Gain understanding of the prevalence of Short Term Let activity in Falkirk.

# Section 2 DEFINITIONS AND LEGAL FRAMEWORK

**2.1**  **The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 SSI 32/2022**

The Scottish Government have introduced a new mandatory licensing scheme for Short Term Lets (STL) under the Civic Government (Scotland) Act 1982. All Short Term Lets will require to be licensed by 1 April 2024.

# What is a Short Term Let?

The definition of a Short Term Let (STL) is prescribed by law (see Appendix 1) but can be broadly described as a commercial agreement to use residential accommodation by a guest, with some exclusions.

# What Accommodation is Excluded?

The 2022 Order provides for certain accommodation to be regarded as “*excluded accommodation*” and therefore there is no requirement for the owners or operators of these types of accommodation to obtain a Short Term Let licence. A full list is contained in Appendix 2 of this policy and includes: hotels; nursing homes; hostels; student accommodation, etc.

Falkirk Council recommends that independent legal advice is obtained to confirm whether accommodation would require a Short-Term Licence or whether a premises is excluded from requiring a Short Term Let licence.

# What Tenancies are Excluded?

The 2022 Order also makes provision to exclude certain tenancies. A full list of excluded tenancies can be found in Appendix 2 of this policy. For example, exclusions include assured and short assured tenancies, Scottish Secure tenancies, and student accommodation etc.

Falkirk Council recommends that independent legal advice is obtained to advise whether agreements with guests would constitute an excluded tenancy. The person seeking an exemption must provide documentary evidence to support any application for exemption.

# Section 3 CONSULTATION

# 3.1 Consultation on Short Term Let Policy

Falkirk Council undertook an online survey between 14 October and 11 November 2022. Details of the responses were considered at the meeting of the Executive on 6 December 2022, when the draft policy was approved*.*

# Section 4 PLANNING

# 4.1 The Town & Country Planning (Short-term Let Control Areas) (Scotland) Amendment Regulations 2022

These regulations were introduced in January 2022 and allow the Council, as planning authority to establish short-term let control areas.

# Control Area Regulations in Falkirk

The Control Area Regulations enables local authorities to designate control areas to help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood) and to restrict or prevent short-term lets in places or types of building where it is not appropriate.

Where no control area is designated, it is for the planning authority to decide whether any change of use of a property requires planning permission. Under the Licensing Order, a preliminary ground for refusal to consider an application for a STL is that that the use of the property would result in a breach of planning control.

Falkirk Council does not intend on implementing Control Area Regulations mainly due to the, estimated, low prevalence of Short Term Let activity operating in this local authority area.

This will be kept under review as the application process opens and we can establish overall prevalence.

# Planning Permission

Under provisions within the Licensing Order, a preliminary ground for refusing to consider an application for a Short Term Let is that the use of the proposed premises would constitute a breach of planning controls set out under the Town and Country Planning (Scotland) Act 1997 by virtue of section 123 (1) (a) or (b) of that Act.

Early engagement with the Council’s Development Management is encouraged prior to submitting a STL licence application to ascertain whether planning permission is required. Planning enquiries should be submitted to [dc@falkirk.gov.uk](mailto:dc@falkirk.gov.uk)

# Section 5 LICENCE TYPES AND POLICIES

**5.1 Types of Short Term Let Licence**

There are potentially four types of Short Term Let licence:

* + - secondary letting (the operator lets out a separate property which is **not** their only or principal home)
    - home letting (the operator lets their only or principal home when they are absent)
    - home sharing (the operator shares their only or principal home) or
    - home letting and home sharing.

Home sharing and home letting concern the use of the Host or Operator's only or principal home, whereas secondary letting makes use of a separate premise.

# Licence Duration

The Council may grant a licence for a period of up to three years, after which it requires to be renewed. Each licence will have been given a unique reference number and will confirm the expiry date. The duration applies from the date on which the licence comes into force (is granted). Falkirk Council will grant an initial STL licence for 3 years.

# Licence Renewal

When an application to renew a licence is made, the licence will continue to have effect until such a time as a decision is made on the renewal application. The Council intend to grant a renewal of a licence for a period of three years unless there are circumstances which justify a different period.

# Temporary Exemption Licence

Councils may grant temporary exemptions to the requirement to have a short-term let licence.

Falkirk Council does not intend to have a policy on temporary exemptions whilst we gain a better understanding of the prevalence of business activity and any associated issues, with this new licensing scheme.

This would mean that anyone operating as a STL, at any time throughout the year, would require to be licensed. This position will be reviewed in due course.

# Temporary Licence

Councils may grant temporary licences. A temporary licence can be granted for up to a

maximum of 6 weeks in a twelve-month period (or longer of a full application was submitted).

In the case of temporary licences, the applicant would require to comply with all mandatory

conditions and would be subject to the same application checks as a full licence.

# Section 6 LICENCE CONDITIONS

**6.1 Mandatory Licence Conditions**

All short-term let licences across Scotland must have mandatory licence conditions applied. These conditions will be detailed in any licence granted. A list of the mandatory licence conditions is contained in Appendix 3.

# Maximum Occupancy

It is a **mandatory condition** that hosts, and operators ensure that they do not exceed the maximum number of guests for their property.

Applicants must state in their application how many guests they would like to accommodate. The Council will consider the following criteria when determining maximum occupancy:

* + - the number requested on the application form.
    - the maximum number that can be accommodated safely (broken down to the number of adults and the number of children)

The Council will not include children under the age of 10 years old, when calculating the maximum occupancy.

# Additional Licence Conditions

In addition to the mandatory licence conditions which apply to all short-term lets, licensing authorities may impose additional conditions as they deem fit. These enable the licensing authority to respond to local challenges and concerns relative to specific types of short- term letting.

Additional conditions may be applied to Short Term Let properties in Falkirk in certain circumstances, and these are contained within Appendix 4.

The Council cannot set conditions which limit the number of nights a premises may be used for secondary letting. The Council has no plans to set limits on home letting or home sharing premises.

The Council will review its list of additional licence conditions on a regular basis and publish these on the website.

# Section 7 APPLICATION PROCESS

# 7.1 Application Form and Notification

All applicants must complete the Short Term Let licence application form available online at [Businesses, premises & venues - Short term lets | Falkirk Council](https://www.falkirk.gov.uk/services/law-licensing/licensing/businesses/short-term-lets.aspx) together with the appropriate documentation, evidence. We are working towards an online submission for all STL applications; however, this is not currently available. Completed applications should be submitted to [licensing@falkirk.gov.uk](mailto:licensing@falkirk.gov.uk) or, alternatively, posted to Licensing section, Falkirk Council, The Foundry, 4 Central Avenue, Central Boulevard, Larbert, Falkirk FK5 4RU.

Applicants will be contacted for payment once the application and associated documentation has been checked. The application will be deemed to have been properly lodged when all required documentation and a fully completed application form has been submitted and payment made.

The applicant checklist from the Scottish Government Guidance for Hosts and Operators is contained within Appendix 5 and can be used to assist with the completion of the application form.

A checklist prepared the Scottish Fire & Rescue Service is contained within Appendix 6 and **must** be completed and returned as part of the application submission.

Applicants may require to submit a floor plan of the property and will be advised accordingly.

All applications must provide documentation to prove that the applicant is the owner, tenant, or person who otherwise exercises control over occupation and use e.g., copy title deed, lease documentation etc.

Please refer to the Scottish Government Guidance Part 1 for hosts and operators which can be found here: <https://www.gov.scot/publications/short-term-lets/>

# Notifying Residents and Neighbours

Applicants are responsible for notifying residents and neighbours when making a new application for a new Short-Term Lets Licence, or when they renew their existing Short-Term Lets licence.

Applicants must display a site Notice clearly at, or near the property where it can be conveniently read by the public, for a period of 21 days, beginning from the date on the application was completed (application and documents submitted to the Council and fee paid).

A Notice must state:

* + - that an application has been made for a Short Term Let licence
    - the main facts of the application
    - that objections and representations in relation to the application can be made to the Council, and
    - how to make objections or representations.

Applicants are required by law to provide a Certificate of Compliance to the Council as soon as possible after the 21 days has expired, confirming that they have displayed the site Notice and photographic evidence will require to be submitted as part of the application process (a photograph of the displayed notice emailed to the Council would be sufficient).

A template site Notice and Certificate of Compliance can be found on the council’s website: [Businesses, premises & venues - Short term lets | Falkirk Council](https://www.falkirk.gov.uk/services/law-licensing/licensing/businesses/short-term-lets.aspx) or by calling 01324 501575.

# Application Checks

The Council must refuse an application for a short-term let licence if it is not satisfied that the applicant is a fit and proper person. The Council will carry out necessary checks to establish whether the applicant is a fit and proper person.

The statutory consultees for this licensing scheme are:

* + - **Police Scotland** for any information they consider relevant to the authority’s consideration of the application, for example, if the applicant has any relevant convictions.
    - **Scottish Fire and Rescue Service** as they have independent responsibility for enforcing fire safety legislation in STLs through the Fire (Scotland) Act 2005.

Information relating to the application will also be sent to Falkirk Council’s Development Management, Building Standards and Environmental Health and Private Landlord Registration

Both the Council and Scottish Fire and Rescue Service may undertake an assessment of the maximum number of guests that can be accommodated safely.

# Preliminary Refusal of a Licence

If planning permission is required and has not been obtained (or refused) prior to an application for a Short Term Let being submitted, then the Council has the power to reject the application, within 7 days of the application being submitted. This is known as a ‘preliminary refusal’ and no refund of application fees will be considered.

Where a further Short Term Let licence application is submitted within 28 days of the original application and with appropriate planning permission, no further licence fee will be applicable.

# Section 8 OBJECTIONS

**8.1 How Can I Make an Objection?**

Any member of the public can submit an objection or representation in relation to a Short Term Let licence application.

To enable Falkirk Council, as licensing authority, to consider an objection or representation, it must be:

* + - in writing (email is sufficient)
    - specify the name and address of the person making it.
    - specify the STL property address or licence number.
    - specify the grounds of the objection or the nature of the representation.
    - be signed off by them or on their behalf.
    - be received by the Council within 28 days of the neighbour notification being displayed or application received by Falkirk Council.

Anonymous, frivolous, or vexatious objections or representations will not be considered.

Late objections or representations may be considered if the Council is satisfied that there is sufficient reason as to why it was not made in the time required.

A copy of the objection or representation will be provided to the applicant and will include your name and address. All personal data will be processed in line with the relevant Privacy Statement – please refer to the Council’s website.

# What Grounds Can I Object On?

The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act:

* The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence.
* The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused.
* The premises is not suitable for the conduct of the activity, having regard to:
* The location, character, or condition of the premises
* The nature and extent of the proposed activity.
* The kind of persons likely to be in the premises.
* Possibility of undue public nuisance, public order; or public safety
* Where there is other good reason

# Section 9 DETERMINATION OF APPLICATIONS

**9.1 Suitability of Applicant**

An essential part of considering a licence application is establishing whether the applicant, as well as any other person named on the application is a ‘fit and proper.’

person. An application must be refused if the local authority considers that the applicant or anyone named on the application is not a fit and proper person to be authorised to operate Short Term Let activity.

# Suitability of the Living Accommodation

One of the key aims of STL licensing is to ensure that the accommodation provided is

safe, of good quality, and has sufficient facilities for the number of occupants. The various factors that will be considered by Falkirk Council when coming to a decision on the suitability of the accommodation are summarised below:

* The location, character, and type of accommodation
* The condition of the accommodation
* Any amenities the accommodation contains.
* The type and number of persons likely to occupy the accommodation.
* Whether any rooms have been subdivided
* Whether any rooms have been adapted, resulting in an alteration to the situation of the water and drainage pipes within the accommodation.
* The safety and security of persons likely to occupy the accommodation.
* The possibility of undue public nuisance; public order or public safety.
* Whether there is a risk of affecting the privacy and security of neighbours.

The Council and Scottish Fire and Rescue Scotland will be taking a risk-based approach to inspection of properties. The Council will be seeking online verification and evidence to be submitted as part of the application process, where the risks will be determined, and advice will be taken.

No additional fee will be charged for inspections relating to the application and approval process.

Where possible inspections will be carried out jointly with the Fire and Rescue Service to minimise disruption to guests.

Assessment of the suitability of the duty holder’s fire risk assessment and the fire safety measures present in the property will be carried out the by the Fire Service in terms of the Fire (Scotland) Act 2005.

The indicative space standards will be measured using the guide in the table below:

|  |  |
| --- | --- |
| **Sleeping Space** | **Number of Guests** |
| 1 double bedroom | 2 guests (excluding children under 10 years old) |
| 1 single bedroom | 1 guest |
| 1 living area | 2 guests (excluding children under 10 years old) |

# 9.3 Approval

Where there are no issues raised by consultees and no objections have been received, the granting of an STL Licence will be considered by the Chief Governance Officer under delegated authority as soon after the statutory 28-day consultation period has ended. If the applicant or any other person mentioned in the application has a current conviction the application will be determined by the Civic Licensing Committee.

# Refusal

Where there are issues raised by consultees that the applicant is unable, or unwilling to resolve, the Chief Governance Officer will submit a report to the Council’s Civic Licensing Committee recommending that the application for an STL licence be refused. In drafting this report the Chief Governance Officer will liaise with various Council services as required. The applicant will be advised in writing that this action is being taken and notified of the date of the Committee meeting. The applicant will be entitled to attend the meeting and to be represented if they so wish.

Where the Committee rejects the recommendation for refusal of the application then the recommendations of the Committee will be actioned. Where the recommendation for refusal is accepted by the Committee, the applicant will be notified of this in writing.

# Notification of Decision

Where an application is refused, the applicant and other relevant services such as: Chief Constable; Scottish Fire and Rescue Scotland and each person who made a valid objection or representation will be notified and the public register updated to reflect the decision. This notice must be served within 7 days of the decision of the Committee.

# 9.6 Timescales for determination of an application

Under the 1982 Act, the Licensing Authority will have 9 months to determine the STL licence application from the date it is received with all the required documentation.

It should however be noted that for applications received prior to 1 April 2023 where the STL was in existence before 1 October 2022, the Licensing Authority will have 12 months to determine the application.

Falkirk Council will aim to approve licence applications as soon as possible after the 28-day consultation period has ended from all information being provided or completion of any objection, representation or investigations being undertaken.

# 9.7 Appeals

Applicants should note that where their STL licence application has been refused by the Licensing Authority they have a right of appeal under the 1982 Act.

An appeal should be made to the Sheriff Court within 28 days from the date of the refusal. Where an appeal has been lodged the STL licence will continue in effect until such time as the appeal has been determined.

Applicants should note that the Licensing Authority is unable to give any legal advice in relation to appealing a decision and as such it is recommended that they seek independent legal advice on the matter.

# Variation of a Licence

At any point through the duration of the STL, the licence holder or Falkirk Council can vary the terms of the licence. A variation application will require to be submitted and a charge will be applicable.

There is no requirement for the variation to be advertised, however the Council will consult with relevant stakeholders at any time, either at their discretion, or if the licence holder asks them to do so.

# Section 10 ENFORCEMENT AND MONITORING

**10.1 Complaints about a Short Term Let**

Anyone may make a complaint to the Council about the way a host or operator is operating their short-term let. Complaints regarding disagreements between the guest and host are outwith the scope of the licensing scheme.

Complaints regarding a short-term let should be sent to: [licensing@falkirk.gov.uk](mailto:licensing@falkirk.gov.uk) for investigation.

Alternatively, complaints can be sent by post to: Licensing Section, Falkirk Council, The Foundry, 4 Central Avenue, Central Boulevard, Larbert, Falkirk FK5 4RU.

The Council will seek to try to resolve a complaint through engagement with the host or operator in the first instance.

A complaint against a short-term let licenced property may result in the Council undertaking an inspection visit to assess compliance. The Council reserves the right to charge the host, or operator, for any costs relating to an inspection visit.

The Council may need to direct some complaints to planning authorities, letting agencies, platforms, VisitScotland, Police Scotland or other bodies for further investigation.

Complaints relating to suspect unlicensed short term lets should be directed to Police Scotland.

# Enforcement Notice

The Council has the power to serve Enforcement Notices. Where complaints, visits to premises, or other information confirm that any licence condition has been breached, the Council will require the licence holder to take action to resolve the situation within a reasonable period.

If informal measures do not result in resolution, the Council will serve an Enforcement Notice ("non-compliance" or "improvement" notice). The notices will set out the matters constituting a breach or a likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.

Enforcement Notices will also be served if a future breach of a licence condition is anticipated, for example, a host or operator is advertising property with a maximum capacity more than the licence condition which specifies a lower capacity. This would be evidenced in a listing or advertisement.

# 10.3 Surrendering a Licence

You can surrender your licence to Falkirk Council at any time, when you no longer want to use your property to provide Short Term Lets.

# 10.4 Offences

Section 7 of the 1982 Act sets out four offences that currently attract fines on the standard scale.

These are summarised in Appendix 7 of this policy, or you can refer to the Scottish Governments guidance for Licensing Authorities here for any updates: <https://www.gov.scot/publications/short-term-lets/>

# Section 11 FEES

**11.1 Fee levels**

Licensing authorities must determine their own fees and fee structures to recover running costs connected to operating the STL licensing regime.

New application, renewal and other chargeable fees will be reviewed on an annual basis, and published on the council’s website: [Licences, permits & permissions - Licensing fees & charges 2022/23 | Falkirk Council](https://www.falkirk.gov.uk/services/law-licensing/licensing/fees-charges.aspx)

Falkirk Council has considered the following criteria in the process of determining the fee levels: -

* The size of the property
* The number of guests who can reside at the property
* The type of STL
  1. **New/Temporary Application Fees**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Licence Type** | **Maximum Occupancy** | **Application Fee** | **Maximum Occupancy** | **Application Fee** |
| Secondary Letting | Up to 4 | £250 | 5 or more | £400 |
| Home Letting | Up to 4 | £125 | 5 or more | £250 |
| Home Sharing | Up to 4 | £125 | 5 or more | £250 |
| Home Letting & Home Sharing | Up to 4 | £125 | 5 or more | £250 |

* 1. **Renewal Fees**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Licence Type** | **Maximum Occupancy** | **Renewal Fee** | **Maximum Occupancy** | **Application Fee** |
| Secondary Letting | Up to 4 | £200 | 5 or more | £350 |
| Home Letting | Up to 4 | £75 | 5 or more | £200 |
| Home Sharing | Up to 4 | £75 | 5 or more | £200 |
| Home Letting & Home Sharing | Up to 4 | £75 | 5 or more | £200 |

* 1. **Other Chargeable Fees**

|  |  |
| --- | --- |
| **Item** | **Charge** |
| Duplicate Licence | £21 |
| Certified Licence | £21 |
| Variation to Licence | £37.80 |
|  |  |

**Section 12 LICENCE NUMBERS**

**12.1 Provisional Licence Numbers**

A unique licence number will be given to existing hosts and operators who apply for a licence before 1 April 2023. This is known as a provisional licence number and will allow existing hosts to continue operating until their application has been determined. Anyone applying after 1 April 2023 cannot operate whilst their application is being determined.

# Licence Numbers

Licence numbers will be issued in a consistent format to assist letting agencies and platforms in being able to use the licence number provided by the host or operator in their listings.

The format of the licence number, alongside information contained in the public register, will allow anybody to identify:

* + - the Council that issued the licence (and therefore the area to which the licence relates).
    - the type of short-term let to which the licence relates (public register); and
    - the type of licence issued.

# Licence number specification

The licence number will comprise of 8 characters, three of which are alphabetical (capital letters) and 5 of which are numerical digits (D):

For example: **A1A2-DDDDD-A3**

The leading two characters (A1A2) will identify the Council; Falkirk Council will use **FK.** The 5 digits will be issued by each Council.

The final character (A3) will denote the type of "licence" to be issued:

* + - **T** Temporary licence
    - **P** Provisional licence number issued on receipt of a licence application
    - **F** First (full) licence
    - **R** Renewed licence

For example: **FK 00001-P**

This number relates to a provisional licence (P). The type of short-term let (e.g. home sharing) will be displayed on the public register.

# Section 13 PERSONAL DATA

**13.1 Introduction**

Licensing authorities are required to maintain a public register of short-term let licenses and share the content of the register with Scottish Government on an ongoing regular basis in a format that enables analysis of the information.

By 1 July 2024, Scotland will have accurate up-to-date data on the number of short- term lets operating (based on licence applications), and their exact location (as well as other relevant data).

As data controllers, Falkirk Council are responsible for ensuring compliance with UK General Data Protection Regulations, this includes storage, handling and disposal of all data related to licence applications they receive.

Falkirk Council must not keep personal data for no longer than it is needed. The Council are responsible for storing data and disposing of it when it is no longer needed. Personal information must only be held for as long as it is necessary for the effective administration of the licensing scheme.

Falkirk Council may share personal data, for specific purposes, as follows:

* Within and between local authorities, Scottish Fire and Rescue Service and Police Scotland as part of the notification process in order to carry out background checks.
* With other licensing authorities, to share the reasons for suspending, varying, or revoking a licence with each other. This might be relevant for example if a host/operator is deemed no longer fit and proper to hold a licence in one area and is also licenced by more than one licensing authority.
* Impact assessments contained within: Short-term lets – licensing scheme and planning control areas: consultation analysis.
* Publication in the public register of licences
* Quarterly submissions to Scottish Government, so that data on licences from each local authority can be amalgamated at a national level, and to review against policy objectives. No personal data will be published in Scottish Government reports on short-term letting activity.
* With letting agencies and platforms, or any person involved in advertising or listing of a property of the fact that:
  + unlawful unlicensed premises are being advertised or listed; or
  + a licence has been suspended or revoked (or varied where the variation affects the maximum occupancy of the property).

This will allow letting agencies and platforms to remove adverts or listings or require amendment if they are inaccurate.

Further details on data processing can be found in the Scottish Government’s DPIA in the 2020 consultation report here: <https://www.gov.scot/publications/short-term-lets/>

# Managing the data

The lawful basis and objectives for collecting, processing, and sharing the data (set out in the DPIA) require licensing authorities to:

* collect sufficient data for monitoring and enforcement purposes, including setting out requirements for the sharing of relevant information between licensing authorities for hosts and operators with premises in more than one area (operational data).
* share data, including the number, type, and location of short-term lets, with Scottish Government in a consistent format on an ongoing regular basis (analytical data). The Scottish Government will combine data into a national database for subsequent analysis but will not include personal data in its report. Operational and analytical data is expected to be shared using the same format and data field specifications as in the public register, with any additional fields appended.
* publish and maintain a register of short-term let licences and their status (granted, refused, being determined, revoked, lapsed etc.), which can be accessed and searched by members of the public (public register). Falkirk Council must publish the register on a quarterly basis.
  1. **The Public Register**

Falkirk Council must:

* + make the register available to the public electronically, in a searchable format.
  + publish or update their register on at least a quarterly basis. By 1 October 2023, the Scottish Government expects licensing authorities to provide more frequent or live updates where it is possible to do so.

Falkirk Council can remove data from the register of data in respect of:

* licences that have been revoked for more than 12 months; or
* licences that have been surrendered.

Note that, reasons for revoking a licence may be appropriate to retain for longer than 12 months if it is likely to be relevant in determining any new application for a licence by the host.

* 1. **Data Sharing with the Scottish Government**

The data to be shared regularly will include the contents of the public register, in a format that enables analysis of the information. In addition to the data fields that must be included in the public register, the Scottish Government also wishes to collect the following data and expects the Council to ensure these fields are included in their data collections and provided, as part of quarterly returns.

This will ensure consistent data across Scotland and facilitate robust analysis:

* + Date application determined.
  + Licence expiry date.
  + UPRN.
  + Application outcome (selecting one of the following reasons):
    - Applicant(s) not fit and proper.
    - Premises not suitable.
    - Planning permission required and not held.

This information will allow for monitoring of application processing times, average length of time a licence is granted for, and common reasons for applications being refused in order to monitor and evaluate the policy.

# Section 14 EQUALITY

The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics.

Prior to the Council implementing this policy an equality, fairness and rights impact assessment was undertaken.

# Section 15 APPENDICES

**APPENDIX 1 - DEFINITIONS**

For the purposes of this policy the definitions adopted below include the definitions from The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

**1982 Act** means the Civic Government (Scotland) Act 1982.

**Accommodation** includes the whole or any part of a premises.

**Falkirk Council,” “the Council”** means Falkirk Council, a Local Authority constituted in terms of the Local Government (Scotland) Act 1994 having its headquarters at the Foundry, 4 Central Boulevard, Central Retail Park, Larbert. FK5 4RU.

**Guest** means a person who occupies accommodation under a Short Term Let and includes all persons where the Short Term Let is to more than one person.

**Home letting** means a Short Term Let 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 for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home.

**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 Short Term Let.

**Licensing Authority** means the licensing authority responsible for the processing of STL licences under the 1982 Act.

**Civic Licensing Committee** means the Falkirk Council’s Civic Licensing Committee.

**Scottish Fire and Rescue Services** means the body corporate established under the Police and Fire Reform (Scotland) Act 2012 and having its registered headquarters at Westburn Drive, Cambuslang, G72 7NA;

**Short-term Let** 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: -

* the guest does not use the accommodation as their only or principal home,
* the short-term let is entered into for commercial consideration,
* 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 educational institution, or
* an owner or part-owner of the accommodation,
* 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,
* the accommodation is not excluded accommodation and
* the short-term let does not constitute an excluded tenancy,

**Immediate family** has the meaning provided for in The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022.

**Short-term Let Control Area** has the meaning provided in section 26B of the Town and Country Planning (Scotland) Act 1997.

**Short Term Let licence or “STL licence”** means a licence for a Short Term Let.

**Policy** means this Short Term Lets policy.

**Police Scotland** means the Police Service of Scotland having its headquarters at Tulliallan Castle, Kincardine.

**Secondary letting** means a Short Term Let for the use of accommodation, which is not, or is not part of, a host’s (double check) only or principal home; and

**Type of Short Term Let** means one of the following purposes: Secondary letting; Home letting; Home sharing; or Home letting and Home sharing.

**APPENDIX 2 - EXCLUDED ACCOMMODATION AND TENANCIES**

**Excluded accommodation** means accommodation which is, or is part of:

* an aparthotel,
* premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act,
* a hotel which has planning permission granted for use as a hotel,
* a hostel,
* residential accommodation where personal care is provided to residents,
* a hospital or nursing home,
* a residential school, college, or training centre,
* secure residential accommodation (including a prison, young offenders’ institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
* a refuge,
* student accommodation,
* accommodation which otherwise requires a licence for use for hire for overnight stays (not including an HMO licence granted under section 129 of the Housing (Scotland) Act 2006),
* accommodation, which is provided by the guest,
* accommodation, which is capable, without modification, of transporting guests to another location,
* a bothy, or
* accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

**An “excluded tenancy”** is a tenancy which falls within any of the following definitions:

* a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984).
* an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988).
* a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988).
* a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland) Act 1993).
* a tenancy of a holding situated out with the crofting counties (within the meaning of section 61 of the Crofters (Scotland) Act 1993) to which any provisions of the Small Landholders (Scotland) Acts, 1886 to 1931) applies.
* a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001).
* a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001).
* a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003).
* a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003).
* a modern limited duration tenancy (within the meaning of section 5A of the Agricultural Holdings (Scotland) Act 2003).
* a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003).
* a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003).
* a private residential tenancy (within the meaning of section 1 of the Private (Tenancies) (Scotland)
* Act 2016); or
* a student residential tenancy.

**APPENDIX 3 - MANDATORY LICENSING 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**

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

**Fire safety**

1. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of:
   1. fire or suspected fire, and
   2. the presence of carbon monoxide in a concentration that is hazardous to health.
2. 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**

1. Where the premises has a gas supply:
2. the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues, and appliances in the premises,
3. 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**

1. 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:
2. ensure that any electrical fittings and items are in:
   * 1. a reasonable state of repair, and
     2. proper and safe working order,
3. 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,
4. ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,
5. arrange for a competent person to:
   * 1. produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
     2. date label and sign all moveable appliances which have been inspected.
6. 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**

1. 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**

1. 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 & repair standards**

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**

1. 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.**

1. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests:
   1. a certified copy of the licence and the licence conditions,
   2. fire, gas, and electrical safety information,
   3. details of how to summon the assistance of emergency services,
   4. a copy of the gas safety report,
   5. a copy of the Electrical Installation Condition Report, and
   6. a copy of the Portable Appliance Testing Report.

**Planning Permission**

1. 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:
   1. an application has been made for planning permission under the 1997 Act and has not yet been determined, or
   2. planning permission under the 1997 Act is in force.

**Listings**

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:
   1. the licence number, and
   2. 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**

1. The holder of the licence must ensure that there is in place for the premises:
   1. valid buildings insurance for the duration of the licence, and
   2. valid public liability insurance for the duration of each short-term let agreement.

**Payment of fees**

1. 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**

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

**Interpretation**

1. In this schedule:

**“Electrical Installation Condition Report”** means a report containing the following information:

* 1. the date on which the inspection was carried out,
  2. the address of the premises inspected,
  3. the name, address and relevant qualifications of the person who carried out the inspection,
  4. a description, and the location, of each installation, fixture, fitting, and appliance inspected,
  5. any defect identified,
  6. 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:

1. the date on which the appliance or flue was checked,
2. the address of the premises at which the appliance or flue is installed,
3. a description of and the location of each appliance or flue checked,
4. any safety defect identified,
5. any remedial action taken,
6. confirmation that the check undertaken complies with the requirements of an examination of:
7. the effectiveness of any flue,
8. the supply of combustion air,
9. subject to head (iv), its operating pressure or heat input or, where necessary, both,
10. if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
11. its operation so as to ensure its safe functioning,
12. the name and signature of the individual carrying out the check, and
13. 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

**APPENDIX 4 - ADDITIONAL LICENCE CONDITIONS**

Falkirk Council may add specific conditions to STL licences if circumstances dictate:

**Anti -social behaviour**

The licence holder must take reasonable steps to manage the property and prevent and deter effectively any anti-social behaviour by guests.

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:

* + 1. ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;
    2. 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
    3. ensure any vehicles belonging to guests are parked lawfully, for example, explaining where any designated parking spaces are to be found and highlighting any local rules.

**Bookings**

The licence holder should make maximum occupancy levels clear on any adverts and listings as well in the booking’s terms and conditions.

Falkirk Council may also consider applying the following conditions in certain circumstances.

**Noise**

The licence holder must ensure that the bedrooms, living room and hallway in the premises have a suitable floor covering to minimise noise affecting any properties below. (i.e., carpet or vinyl floor covering))

***(Condition may be applied following investigation of concerns regarding noise and would be applied to properties located at 1st floor and/or above where a residential property is located below.)***

The licence holder must take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 11 pm to 7 am. The licence holder must advise guests of this as part of their booking terms and conditions. (Note: “reasonable steps” allows for exceptions, such as significantly delayed transport.)

***(Condition would only be applied to those properties located at 1st floor and/or above where a residential property is located below, near a neighbouring property or whether there is a shared entrance/communal areas.)***

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.

(***Condition may be applied following investigation of concerns regarding noise associated with playing music in outdoor areas.)***

**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:

* + 1. guests know and understand any rules applying to shared areas and entrances,
    2. guests understand that shared doors should be properly and securely closed after use; and
    3. 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.

**Damage to Property**

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

**Littering and Waste Disposal**

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

2. The licence holder must advise guests of:

* + 1. their responsibilities,
    2. the use of the bins / sacks provided for the premises; and
    3. the location of the nearest recycling centre or recycling point.

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

**APPENDIX 5 - APPLICANT CHECKLIST**

**Application checklist**

This list helps you check you have the relevant information to submit an application for a licence. Getting your application right first time will help you to get a decision more quickly.

Your licensing authority will set out the detail and format of any documentation that must accompany your application.

|  |
| --- |
| **Preliminary** |

|  |  |
| --- | --- |
| I am providing or intend to provide short-term lets |  |
| I know the date by which I need to apply for a licence |  |
| I know whether I can continue operating whilst my application is processed |  |
| I know which type of licence I want to apply for:   * home letting * home sharing * home sharing and home letting; or * secondary letting. |  |
| I have identified my licensing authority based on the address of my premises. You can find out which local authority your property is located in by entering the postcode at the following webpage: [Find your local council](https://www.gov.uk/find-local-council) [-](https://www.gov.uk/find-local-council) [GOV.UK (www.gov.uk)](https://www.gov.uk/find-local-council) |  |
| I have checked whether my licensing authority considers applications for temporary exemptions and, if so, whether I should apply for one. |  |
| I have checked whether my licensing authority considers applications for temporary licences and, if so, whether I should apply for one. |  |

|  |
| --- |
| **Applicants (see chapter 2)** |

|  |  |
| --- | --- |
| I have identified the owners and those involved with the day-to-day management of my premises. |  |
| I have the permission of the owners of the premises (or their representative) in writing to use it for this purpose. |  |
| To the best of my knowledge, I, and the other people I will name on my application are fit and proper persons. |  |
| I have contact details for the people and organisations I will name on my application form. |  |

|  |  |
| --- | --- |
| **Mandatory conditions (see chapter 2)** |  |

|  |  |  |
| --- | --- | --- |
| **Responsibility for the property** | **Agents** – I have identified those involved with the day-to-day management of my premises and know that I cannot change them without the licensing authority’s approval. |  |
| **General safety and standards** | **General safety** – I have taken all reasonable steps to ensure the property is safe for residential use. |  |
|  | **Occupancy** - I know how many guests I want to accommodate, and I consider that I can do this safely. I have checked what the licensing authority will need to see regarding floor plans. |  |
|  | **Repairing standard** – I have worked out whether my premises is a dwelling-house and whether the repairing standard applies to me.  [*If relevant*] My premises meets the repairing standard. |  |
|  | [*If relevant*] **EPC** – my premises has a valid EPC certificate issued within the last 10 years. |  |
| **Fire safety** | **Fire safety: premises** – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide. |  |
|  | **Fire safety: furniture and furnishings** - my furniture and furnishings / furniture and furnishing guests have access to comply with fire safety regulations and I have records that demonstrate compliance. |  |
| **Gas safety** | **Gas safety** – I have an up-to-date Gas Safety Certificate (dated within the last 12 months). |  |

|  |  |
| --- | --- |
| **Mandatory conditions (continued)** |  |

|  |  |  |
| --- | --- | --- |
| **Electrical safety** | **Electrical safety –** I have made sure my electrical fittings and items are in good working order; |  |
|  | arranged for an **electrical safety inspection** to be carried out by a competent person; |  |
|  | obtained an **Electrical Installation Condition Report** on any fixed installations; and |  |
|  | obtained a **Portable Appliance Testing Report** on moveable appliances to which my guests have access and labelled inspected items. |  |
| **Water safety** | **Water supply** – I have established that my premises are supplied with water by Scottish Water **or** I have established that my premises has a private water supply and I comply with the relevant regulations. |  |
|  | I have completed a **legionella risk assessment** for the premises |  |
|  | I have completed a separate **legionella risk assessment** for a hot  tub / spa pool |  |
| **Other** | **Information for guests** – I have prepared information for guests and know where I will put it for them on the premises. |  |
|  | **Planning permission** – I have established whether I need to submit evidence that I have planning permission (or a certificate of lawful use of development) or have made an application. |  |
|  | **Listings: licence number** – I have made plans to display my licence number on adverts and listings. |  |
|  | *[If relevant]* **Listings: EPC rating**– I have made plans to display my EPC rating on adverts and listings. |  |
|  | **Buildings insurance** – I have checked that there is valid buildings insurance in place for the premises. |  |
|  | **Public liability insurance** - I have checked that there is valid public liability insurance in place whilst my premises is let as a short-term let. |  |

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| --- |
| **Additional conditions** |

|  |  |
| --- | --- |
| I have checked whether my licensing authority has any **additional licence conditions**  and I can comply with the ones that are likely to apply to me. |  |

|  |
| --- |
| **Other matters to consider** |

|  |  |
| --- | --- |
| **Food safety** - I understand the food hygiene and safety rules that apply to me. |  |
| **Alcohol Licensing** – [if relevant] I understand the requirements if I wish to sell alcohol on my premises and have a valid licence with Falkirk Council.  Further information is available here: [Alcohol - Premises licence | Falkirk Council](https://www.falkirk.gov.uk/services/law-licensing/licensing/alcohol/premises-licence.aspx) |  |
| I comply with legal requirements that relate to **fire safety** set out in the Fire (Scotland) Act 2005. |  |
| I have checked the **title deeds** of my premises. |  |
| I will declare my income from my short-term let activity for **tax** purposes. |  |
| I have checked with my **lender** that I am allowed to use my premises for this purpose. |  |
| I am complying with **other legal requirements** that affect me, my business or my premises. |  |
| I have considered **engaging with my neighbours** |  |

|  |
| --- |
| **Fees** |

|  |  |
| --- | --- |
| I know the **fee** that I will charged and I am ready to pay it with my application. |  |

**APPENDIX 6 - SCOTTISH FIRE & RESCUE SERVICE STL FIRE SAFETY CHECKLIST**

|  |  |
| --- | --- |
| Scottish Fire and Rescue Service. Working together for a safer Scotland. This is a logo | **SHORT TERM LET (STL) LICENSING  FIRE SAFETY CHECKLIST** |

|  |  |
| --- | --- |
| **Address** |  |
|  |  |
|  |  |
| **Postcode** |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Dutyholder** |  | **Contact Tel No** |  |

|  |  |
| --- | --- |
| **Contact Email** |  |

|  |  |
| --- | --- |
| **Premises STL Reference** |  |

|  |  |  |
| --- | --- | --- |
| **Section A: Premises Profile** | **Yes** | **No** |

|  |  |  |
| --- | --- | --- |
| Is the maximum occupancy of the premises for 10 persons or less (including children)? |  |  |
| Is the premises being used for home sharing for 8 guests or less (including children)? |  |  |
| Does the premises have an escape route from each short term let bedroom via a hall and/or stair to at least one final exit door (which has direct access to the outside)? |  |  |
| Does the premises have letting accommodation on the ground and/or first floor only? |  |  |
| Is the premises storey areas less than 200 m2 internal floor space? |  |  |

|  |
| --- |
|  |

|  |  |  |
| --- | --- | --- |
| **Section B:** | **Yes** | **No** |

|  |  |  |
| --- | --- | --- |
| Have you carried out and recorded a Fire Safety Risk Assessment which is available for inspection? |  |  |
| Has the Fire Safety Risk Assessment fully considered the diverse range of needs that guests may have in relation to fire safety? |  |  |
| Has the Fire Safety Risk Assessment been reviewed in the previous 12 months?  *Where answer is “No” see guidance below for further advice* |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
|  | Have escape routes (fire resisting construction and self-closing fire doors where appropriate) been assessed as adequate for the property type through the premises Fire Safety Risk Assessment? |  |  |
|  | Can you confirm that no inner rooms are used as sleeping accommodation? |  |  |
|  | Are escape routes (including communal areas, where present) clearly signed as such and kept free from obstruction at all times? |  |  |
|  | Have you recorded the evacuation procedures and ensured that guests are aware of them? E.g. have they been provided with the information in the form of a fire action notice or via a welcome folder?  *Where answer is “No” see guidance below for further advice* |  |  |

|  |  |  |
| --- | --- | --- |
|  | **Yes** | **No** |

|  |  |  |  |
| --- | --- | --- | --- |
| **Doors and Exits** | Do all final exit doors, including the main entrance used by guests, open from the inside without use of a key?  *Where answer is “No” see guidance below for further advice* |  |  |
| **Firefighting Equipment (Extinguishers)** | Is the firefighting equipment adequate for the risk in the premises (number, type, location)? \*\* as assessed through the premises Fire Safety Risk Assessment?  *Where answer is “No” see guidance below for further advice* |  |  |
|  | Is firefighting equipment maintained annually and recorded on the test labels and/or log book?  *Where answer is “No” see guidance below for further advice* |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Automatic Fire Detection** | Is the level of automatic fire detection adequate within the premises as assessed through the premises Fire Safety Risk Assessment? |  |  |
|  | Is the system tested weekly/monthly/annually and the results recorded in a Log Book?  *Where answer is “No” see guidance below for further advice* |  |  |
| **Emergency Lighting** | Is there adequate provision for the lighting of emergency routes in the event of a mains failure as assessed through the premises Fire Safety Risk Assessment? |  |  |
|  | Is any equipment provided tested and maintained with the results of tests recorded in a Log Book?  *Where answer is “No” see guidance below for further advice* |  |  |
| **General** | Is there an up to date Fire Log Book including test certificates available for audit?  *Where answer is “No” see guidance below for further advice* |  |  |

**Guidance Advice for Dutyholders**

1. [Do You Have Paying Guests?](https://www.gov.uk/government/publications/do-you-have-paying-guests) (Currently National Fire Chiefs Council Guidance for English based properties. This will be superseded by Scottish Guides in due course)
2. [Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation](https://www.gov.scot/publications/practical-fire-safety-guidance-existing-premises-sleeping-accommodation-2/) (Where answers are yes in all of section A Annex 2 may be used.)
3. [Non-domestic fire safety](https://www.gov.scot/policies/fire-and-rescue/non-domestic-fire-safety/)

**APPENDIX 7 SUMMARY OF OFFENCES UNDER 1982 ACT**

|  |  |
| --- | --- |
| **Level on the scale maximum fine** | **Fine** |
| **1** | **£200** |
| **2** | **£500** |
| **3** | **£1,000** |
| **4** | **£2,500** |
| **5** | **£5,000** |

**Operating without a licence**

It is an offence, without reasonable excuse, to carry on an activity for which a licence is required without having such a licence. Depending on the activity, different punishments apply. The default is a fine not exceeding level 4 on the standard scale.

The Scottish Government intends to increase the maximum fine to £50,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.

**Failing to comply with a licence condition**

It is an offence to fail to comply with a licence condition, though it is a defence to have used all due diligence to prevent the offence. The default is a fine not exceeding level 3 on the standard scale.

The Scottish Government intends to increase the maximum fine to £10,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.

The maximum occupancy condition limits the number of guests in the premises. Breaching this condition might lead to significantly more revenue. The fine for failing to comply with the licence condition must outweigh the profit made from such a breach.

Note that some mandatory conditions are also enforceable through other legislation. Hosts and operators must include an EPC rating in their listing where they are required to have a valid EPC certificate for the premises under building standards legislation. A host or operator who fails to hold a valid EPC certificate, where required to have one under building standards legislation, can be fined as follows as a minimum:

£500 for failing to hold a valid EPC certificate; and

£500 for failing to display a rating on any property listing.

**Failing to notify a change etc.**

It is an offence for a licence holder, without reasonable excuse, to:

1. fail to notify the licensing authority of a material change of circumstances (level 3 on the standard scale),
2. make or cause or permit to be made any material change in the premises (level 3 on the standard scale),
3. fail to deliver the licence to the licensing authority (level 1 on the standard scale).

**Making a false statement**

Hosts or operators should not make a false declaration about where they live, to apply for a home sharing or home letting licence, rather than a secondary letting licence.

It is an offence to make a false statement in an application (level 4 on the standard scale).

The Scottish Government intends to increase the maximum fine to £10,000 through provision in a suitable Bill early in this session (2021-26) of the Scottish Parliament.