



Midlothian

**Midlothian Council**  
**Draft Short Term Lets Policy**  
**Xx XXXXXXXXX 2022**

## Contents

DRAFT

- 1 Introduction
  - 2 Definition of Short-term Lets
  - 3 Timescales
  - 4 Policy Purpose, Aims, Objectives
  - 5 Consultation on Short-term Let Policy
  - 6 Links to other Midlothian Council Policies
  - 7 Planning Permission
  - 8 Types of Short-Term Let
  - 9 Temporary Exemptions and Temporary Licence Policy
  - 10 Requirements for Short Term Let Licensing
  - 11 The Application Process
  - 12 Checks Made on the Application
  - 13 Determining a License Application
  - 14 License Conditions
  - 15 Duty to Keep a Register
  - 16 Compliance and Enforcement
  - 17 Review of Policy and Fees
- Appendix 1 – Mandatory and Additional Licence Conditions
- Appendix 2 – Application Form and Application Checklist
- Appendix 3 – Fees and Charges
- Appendix 4 – Draft Notice to Neighbours

## 1. Introduction

- 1.1. Scottish Government brought into being a scheme of licensing for Short-term Lets (STL) in The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“22 Order”). This Order requires that all short-term lets be licensed by 1 April 2024.
- 1.2. A short-term let is defined in the order and this is detailed in section 2, below.
- 1.3. Midlothian Council must be able to accept licensing applications after 1 October 2022. This Policy becomes effective from that date.
- 1.4. In preparing this policy, Midlothian Council has had due regard to the [Short term lets - licensing scheme part 1: guidance for hosts and operators](#) and [Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms issued by the Scottish Government](#).
- 1.5. This policy should be read in conjunction with the 22 Order and all relevant legislation, including but not limited to the 1982 Act, the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021.

## 2. Definition of Short-term Lets

- 2.1. The Order defines a short-term let as the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met:
  - a) the guest does not use the accommodation as their only or principal home,
  - b) the short-term let is entered into for commercial consideration,
  - c) the guest is not -
    - i. an immediate family member of the host,
    - ii. sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
    - iii. an owner or part-owner of the accommodation,
  - d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
  - e) the accommodation is not excluded accommodation (see 2.2), and
  - f) the short-term let does not constitute an excluded tenancy (see 2.3)

### 2.2 Excluded Accommodation

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 the 2005 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
- accommodation, which is provided by the guest,
- accommodation, which is capable, without modification, of transporting guests to another location
- a bothy
- 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
- Self-catering property in the grounds of a licensed hotel

are **excluded** from the scheme and does not require to be licenced as a short-term let.

### 2.3 Excluded Tenancies

Any of the following tenancy types will not fall into the scope of Short-Term let Licencing:

- 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) 1988 Act)
- 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(8)) 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 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 Housing (Tenancies) (Scotland) Act 2016)
- a student residential tenancy

2.4 It is recommended that people take their own independent legal advice on whether or not their accommodation would require a short-term let licence. The Licensing Authority cannot provide legal advice on whether or not a premises is excluded from requiring a short-term let licence.

### 3. Timescales

- 3.1. From the **1st of October 2022**, any new host or new operator must have a licence in place prior to operating a Short-Term Let. This means that if you were not using your property as a Short-Term prior to this date, you will not be able to accept paid guests until a licence has been approved.
- 3.2. An existing host that has been letting a property prior to the 1st of October 2022, will still be allowed to operate, however must submit a licence application by the **1st of April 2023**. This means for this period, existing hosts will still be allowed to operate without a licence, unless they have had a licence application submitted and refused.
- 3.3. The final deadline date for all hosts and properties to be licenced is the **1st July 2024**.

### 4. Purpose, Aims and Objectives

- 4.1. The Scottish Government has put in place this licensing scheme to help make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.

4.2. This policy seeks to ensure that Midlothian Council has:

- An efficient, effective and proportionate licensing scheme, customised to the needs and circumstances of the local authority area and supports applicants who wish to obtain a short-term let license;
- Short-term lets which are safe and address the issues faced by neighbours;
- A knowledge and understand of what is happening in its area in terms of short-term letting,
- Defined the types of short term licenses which will be available.
- A clear and transparent means of setting the applicable fees.
- An effective, efficient, and proportionate mechanism for handling complaints in relation to short-term lets.
- Detailed its enforcement procedures in terms of non-compliance with a license granted.

## 5. Consultation on Short-Term Let Policy

5.1. The Council has consulted widely on this policy prior to its introduction on 1 October 2022. The consultation took place from [insert date] 2022 to [insert date] 2022. In finalising the policy statement, appropriate weight has been given to the views of those who respond to the consultation.

## 6. Links to Other Midlothian Policies

6.1. The short-term lets policy links with the Midlothian Local Development Plan 2017 in particular:

- Policy VIS 2 Tourist Accommodation
- Policy ECON 6 Working from Home/ Micro Businesses
- Policy RD 1 Development in the Countryside
- Policy ENV1 Protection of the Green Belt
- Policy ENV 19 Conservation Areas
- Policy ENV 22 Listed Buildings

6.2. It also links to the Single Midlothian Plan 22/23 Theme 4 – Improving Opportunities for the People of Midlothian and Theme 5 – Sustainable Growth.

## 7. Planning Permission

7.1. There is a separate legislative process from licensing which allows the Council, as planning authority, to establish short-term let control areas.

7.2. The purpose of control areas is to help planning authorities 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 buildings where it is not appropriate.

7.3. Outside of a control area, it is for the planning authority to consider whether any change of use of a dwelling house is material and, therefore, requires planning permission. This is determined on a case by case basis. 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.

- 7.4. Hosts and operators are, therefore, encouraged to **engage with the Council's planning department prior to submitting a licence application** to confirm whether they require planning permission or a certificate of lawful use of development.
- 7.5. Within a control area designated by a planning authority, such a change of use will always require planning permission. **The host or operator must make an application for planning permission or already have planning permission before they apply for a licence.**
- 7.6. Having considered the nature of the short-term letting market in Midlothian it has been decided not to declare any Short-term Control areas at present. This position will be reassessed when the Policy is reviewed.

## 8. Types of Short-term Let Licence

8.1. There potentially four types of short-term let licence:

- a) **Secondary Letting**  
The operator lets out a separate premises which is not their only or principal home.
- b) **Home sharing**  
The operator shares their only or principal home.
- c) **Home Letting**  
The operator lets their only or principal residence while they are absent.
- d) **Home Sharing and Home Letting**  
Home letting and home sharing.

8.2. Midlothian Council has made the decision to provide licenses for either:

- 8.2.1. Secondary Letting.
- 8.2.2. Home Sharing and/or Home Letting.

## 9. Temporary Exemption and Temporary License Policy

9.1. Midlothian Council does not intend to have a policy on temporary exemptions or temporary licenses and would not be supportive of either such application.

## 10. Requirements for Short-term Let Licensing

- 10.1. A separate licence is required for each **premises**. However, a single licence may be issued in respect of unconventional accommodation (not a **dwelling house**) where there is more than one separately bookable property on the site and would be considered on a case-by-case basis. Unconventional accommodation relates to



accommodation being used for residential purposes, not defined as a dwelling house, for example Glamping Pods.

10.2. A dwelling house is defined as an independent dwelling (with its own front door, kitchen, bathroom, living facilities) such as a flat, house, cottage etc. Separate licences will not be required for separate rooms let within the same dwelling house. For example, if two separate rooms are let out within the same house, only one licence is required.

10.3. Bed & Breakfast premise are not excluded accommodation. Therefore, a B&B which retains the Planning use class 9, that is a dwelling house, **will require** to be licenced as a short-term let. B & B operators who are unclear about their Planning class use should contact Midlothian Planning Service for advice before making an application.

10.4. It should be noted that if a property is licenced as a House of Multiple Occupancy (HMO), if the rooms within are being used as a Short-Term Let then a Licence for this purpose will also be required.

## 11. The Application Process

11.1. A short-term let license may be applied for via the Midlothian Council website at XXXXXXXX. The application form and checklist are provided in Appendix 2.

11.2. The current application fees for various Short-term Licensing Applications and documentation are detailed in Appendix 3.

11.3. All applicants who apply for a short-term let licence must display a notice for a period of 21 days, beginning with the date on which the application was submitted to the licensing authority, at or near the premises so that it can be conveniently read by the public. This notification allows these neighbours to raise any objections to the grant of the licence. The Notice must state:

- I. That an application has been made for a licence
- II. The main facts of the application
- III. That objections and representations in relation to the application can be made to the Council and how these can be made.

A template is provided in Appendix 4.

11.4. Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. A template for this certification will be provided to the applicant once an application is submitted.

## 12. Checks Made on the Application

12.1. A copy of the application shall be sent to Police Scotland and the Scottish Fire and Rescue Service by the local authority. A copy will also be sent to:

- Midlothian Council's Planning Department
- Midlothian Council's Building Standards service

- 12.2. Midlothian Council requires to consider if the premises for which the Short-Term License is applied, requires to have planning permission for this use. Every property for which an application is made will require to be considered on its own merits. If it is considered that planning permission is required, but is not in place, Midlothian Council may refuse to consider the application.
- 12.3. Physical checks of the property to which the licence application relates may be undertaken prior to determining the application or at any time after the application is granted. These checks will consider if the premises are compliant with the mandatory licence conditions required by the 2022 Order detailed in Appendix 1.
- 12.4. Powers exist to attach additional conditions to a licence at the discretion of the Local Authority. At present Midlothian Council does not intend to attach additional conditions. However this position may change when the policy is reviewed.
- 12.5. Failure to comply with mandatory conditions (or additional conditions if these become applicable in the future) will result in a licence being refused. If a licence is already in place, failure to comply will be a breach of the licence which may result in the licence being revoked.
- 12.6. Records must be retained for all safety checks and safety visits which are required to be undertaken for the premises (See Appendix 1 for mandatory condition and Appendix 2 for the application checklist). Copies of these documents must be provided to Midlothian Council for their records.
- 12.7. A licence will state the maximum number of guests which can stay in a property at any time. In determining this number Midlothian Council will consider the maximum number that be accommodated safely; and the maximum number that be accommodated within tolerable standards for neighbours. It will consider the number of beds, bedrooms, size of the premises and means of escape.
- 12.8. Midlothian Council will consider the following when determining if an applicant is a fit and proper person to hold a short-term let license:
- I. Any relevant criminal convictions and other relevant information from the Police;
  - II. Being disqualified from being a private landlord or having a letting agent or property factor registration revoked now or in the past;
  - III. Having a license or short-term lets or House in Multiple Occupation (HMO) revoked by any licensing authority;
  - IV. Having had an application for a short term-lets licence refused by any licensing authority (other than on the grounds of overprovision); and
  - V. Providing false or misleading information in an application for short-term-let licensing, HMO licence or application to be a private landlord.
- 12.9. If Midlothian Council considers that an applicant or their agent are not a fit and proper person to hold a licence the application will be refused.

- 12.10. The Council may also consider any other information they consider to be relevant. They will liaise with the police for information, or make reasonable enquiries, for example to verify the details of all property owners.
- 12.11. These checks are to protect neighbours, guests and other people from harm and crime; and to assist police in law enforcement.

### 13. Determining an Application

- 13.1. Under the 1982 Act, the authority will have 9 months to determine the Short Term Let licence application from the date a full application is received, with all the required documentation. However, for applications received prior to 1 April 2023 where the Short Term Let was in existence before 1 October 2022, the authority will have 12 months to determine the application.
- 13.2. The Council will check that all information required in Section 12 above and Appendix 1 has been provided to their satisfaction. If all the required information provided is satisfactory the Licence will be approved by an authorised officer under delegated powers. However, if there are any matters of concern regarding the application a hearing of the General Purposes Committee will be convened to determine if the license should be granted or refused.
- 13.3. One of the main purposes of short-term let licensing is to ensure that accommodation provided is safe. Where Midlothian Council considers that there are significant risks to safety and security or they are not satisfied that the applicant is a fit and proper person they may:
- Refuse any application
  - Delay granting an application
  - Issue an enforcement notice
  - Vary or suspend a licence; or
  - Revoke a licence
- 13.4. Anyone can make an objection or representation to the Council, about an application for a short-term let licence. The representation should be made during the 28 day consultation period starting immediately on the day on which notice of the application is displayed. Late objections may be considered in some circumstances where the Council considered that the reasons for late submission are acceptable.
- 13.5. To enable the Council to consider objection or representation, it must be:
- a) in writing (email to [shorttermlet@midlothian.gov.uk](mailto:shorttermlet@midlothian.gov.uk) is sufficient),
  - b) specify the grounds of the objection or the nature of the representation,
  - c) specify the name and address of the person making it,
  - d) be signed off by them or on their behalf,
  - e) be received by the Council within 28 days from when the notice of application is displayed.

- f) Late objections may be considered in some circumstances where the Council considered that the reasons for late submission are acceptable.

13.5 Grounds for objection to an application should relate to the purposes of the licensing scheme or planning rules. For example, concerns relating to:

- Safety, noise or nuisance relating to licencing
- Availability of residential housing, the impact on the character of the neighbourhood or the suitability of the building which relate to planning.

13.6 An un-redacted copy of any objection will be sent to the applicant or their representative.

13.7 Where objections are received the application may be brought before the General Purposes Committee for consideration. The objector will be invited to attend this meeting to speak to their objection and the applicant will be provided with the opportunity to respond.

13.8 Any anonymous objection or representation will not be considered. "Anonymous" includes objections or representations where the person making the objection or representation cannot be contacted using the contact information provided.

13.9 Objections or representations considered by the Council to be frivolous or vexatious, or those which have previously been considered and not been upheld, will not be considered.

13.10 The Council has the power to refuse an application for secondary letting where they consider that there would be an overprovision of secondary letting in that particular locality. Overprovision is only applicable to secondary letting. Currently the Council considers that overprovision is not an issue of concern in Midlothian and overprovision will not be used as ground for refusing a licence application. This decision will be reviewed periodically and may change. Should overprovision be deemed to become an issue an Overprovision Policy Statement will be produced.

13.11 Should an application be refused, an applicant will not be able to reapply for a licence within one year of that decision, unless there has been a material change in circumstances since the application was refused. Evidence of such material change, will be required as part of any fresh application.

13.12 Applicants may appeal against a refusal of their short-term let licence application. The appeal should be made in writing within 28 days of being notified of refusal and should be sent to [shorttermlet@midlothian.gov.uk](mailto:shorttermlet@midlothian.gov.uk) or by post to Protective Services, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3AA.

13.13 If the applicant has followed the process above and is still unhappy with the outcome they have a right of appeal to the Sheriff Court. However, they only have

this right if they have taken every opportunity to state their case to the Committee.

13.14 The Sheriff can uphold an appeal only if the sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.

13.15 Any appeal must be lodged by way of a summary application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against.

13.16 Parties should seek their own independent legal advice in relation to an appeal.

## 14 Licence Conditions

14.1 There are certain conditions which the 2022 Order requires to be attached to any license granted. These will be detailed in any license granted. A list of the mandatory license conditions is contained in Appendix 1.

14.2 At present Midlothian Council does not intend to attach additional conditions. However this position may change when the policy is reviewed.

14.3 The Council may grant a licence for a period of their choosing for up to a maximum of three years, after which it requires to be renewed. First licence applications will be granted for a period of one year. Each licence will have a reference number and will confirm the expiry date.

14.4 The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence.

14.5 Where an application is made to renew a licence, before the expiry date, the licence will continue to have effect until such a time as it naturally expires or a decision is made on the renewal, whichever is the later. Where satisfactory compliance with the licence conditions has occurred the Council intends to grant a renewal of a licence for a period of up to three years. However, where any licence conditions have been breached during the previous licence period, the renewal period (if renewed at all) will be for a maximum period of one year.

14.6 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.

14.7 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

- 14.8 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: **A<sub>1</sub>A<sub>2</sub>-DDDDD-A<sub>3</sub>**

The leading two characters (A<sub>1</sub>A<sub>2</sub>) will identify the Council; Midlothian Council will use **MC**. The 5 digits will be issued by each Council.

The final character (A<sub>3</sub>) 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: **MC -00001 - F**

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

## 15 Duty to have a public Register

- 15.1 Licensing authorities are required to maintain a public register of short-term let licences, and share the content of the register with Scottish Government on an ongoing regular basis.
- 15.2 Licensing authorities must:
- a) Make the register available to the public electronically, in a searchable format
  - b) Publish or update their register on **at least** a quarterly basis, and
  - c) Include in the public register the following information, if requested,
    - The number of bedrooms in the premises,
    - Data on availability and occupancy,
    - Contact details for the manager of the premises, if different from the applicant, and
    - The Energy Performance Certificate rating.

## 16 Compliance and Enforcement

- 16.1 Anyone can make a complaint with regards to a property licenced as a short-term let. Such complaints can be made via Midlothian Council website at xxxxxx; by email to [shorttermlet@midlothian.gov.uk](mailto:shorttermlet@midlothian.gov.uk); or by post to Protective Services, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3AA.
- 16.2 If, after investigation, the Council consider that the complaint is justified they will seek first to resolve the matter by engagement with the host or operator. Midlothian Council will aim to respond to complaints within 21 working days of

receipt. The Council will keep a record of all complaints made under this policy and the complainant will be kept informed throughout the process.

16.3 The Council may need to direct some complaints to other bodies such as planning authorities, letting agencies, Visit Scotland, Police Scotland etc. for further investigation.

16.4 If the matter under investigation cannot be resolved informally by the Council then enforcement action under the 22 Order and the Civic Government (Scotland) Act, 1982 will be considered.

16.5 A complaint may relate to the following areas:

- Whether the host is a fit and proper person
- The condition of the accommodation
- Concerns regarding planning permission
- Undue public nuisance, public order, or public safety;
- Excessive noise, disturbance or antisocial behaviour;
- Suspected unlicensed short-term lets;
- Privacy and security of neighbours; or
- Any other good reason

16.6 Complaints which the Council consider to be frivolous or vexatious will not be considered

16.7 In the first instance, guests should raise any concerns about their short-term let with their host/operator or letting agent/platform. If the issue is sufficiently severe, then the Council may become involved.

16.8 Please note that the Council cannot consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.

16.9 If anyone suspects that a property trading as a short-term let is not licensed they should first check the public register on the Midlothian Council website at xxxxxx. If the property does not appear on the register they can report the matter to Midlothian Council via xxxxxx; by email to [shorttermlet@midlothian.gov.uk](mailto:shorttermlet@midlothian.gov.uk); or by post to Protective Services, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3AA.

16.10 The Council will investigate any such complaints and take appropriate action.

16.11 The Council will periodically check, via various means, whether hosts, or operators in Midlothian area, are trading as short-term lets without a valid short-term let license.

16.12 The 22 Order and the 1982 Act provide the following enforcement options:

- Introduction of additional licence conditions on applications (or through variation)
- Enforcement Notices
- Variation, suspension or revocation of the licence
- Pursuance of prosecution in respect of the offences under the 1982 Act



- 16.13 Midlothian Council has the power to serve enforcement notices. Where complaints, visits to premises or other information, suggest that a licence condition has been, or is likely to be, breached, and informal means of resolution have not rectified the matter, the Council will require a licence holder to take action to put it right by service of an enforcement notice.
- 16.14 The Enforcement Notice will specify the following:
- The matters constituting the breach or likely breach;
  - The action to be taken by the licence holder for the purpose of rectifying or, preventing the breach; and
  - The date by which the action must be taken.
- 16.15 If the licensee fails to comply with the enforcement notice the Council has the powers to vary, revoke or suspend a licence.
- 16.16 The Council may vary, suspend or revoke a licence in certain circumstances. This may be done without serving an enforcement notice if the seriousness of the breach justifies urgent action.
- 16.17 Midlothian Council may vary the terms of a licence on any grounds they think fit. They can do this at any time. They can do this following an application made to them by the licence holder or on their own initiative.
- 16.18 The Council may order the suspension or revocation of a licence if in their option –
- The licence holder is no longer a fit and proper person to hold the licence;
  - The licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence;
  - The short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
  - A condition of the licence has been contravened.

## 17 Review of Policy and Fees

- 17.1 Midlothian Council will review this policy at a minimum every 3 calendar years with the first scheduled review being 1<sup>st</sup> October 2025.
- 17.2 All fees and charges applicable to Short-term let licences and documentation will be reviewed each fiscal year with the first scheduled review due on 1<sup>st</sup> April 2024.
- 17.3 Fees will not be refunded if the application is refused or withdrawn.



## Appendix 1

### Mandatory License Application Conditions

- 1) You must not authorise any other person to carry on the day to day management of the short-term let of the premises.
- 2) You must ensure that the number of guests residing in the premises does not exceed the number specified in the licence.
- 3) Where your premises is a dwelling house, you must ensure that the premises meet the repairing standard.
- 4) You must ensure your premises has satisfactory equipment installed for detecting, and for giving warning of—
  - (a) Fire or suspected fire, and
  - (b) Carbon monoxide present in a concentration that is hazardous to health.
- 5) You must—
  - a) Ensure that all upholstered furnishings and mattresses within the Premises comply with the Furniture and Furnishings (Fire Safety) Regulations 1988,
  - b) Keep records showing that all upholstered furnishings and mattresses within the premises comply with these Regulations.
- 6) Where your 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 by a competent person.
  - b) If, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not grant a short-term let until the works necessary to bring the appliance to the required safety standard have been carried out and the evidence of these works submitted to the Council.
- 7) If you have electrical fittings or items in the premises, you 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.
- 8) Where your premises is served by a private water supply, you 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.
- 9) You must assess the risk from exposure to Legionella within your premises, whether or not it has a private water supply.
- 10) You must make the following information available within the premises in a place where it is accessible to all guests—
- 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.
- 11) Where your premises is in a control area and where the use of the premises for a short-term let requires planning permission, you must either—
- a) Have made an application for planning permission or
  - b) Already have planning permission.
- 12) You must ensure that any listing or advert (whether electronic or otherwise) for your premises includes—
- a) The licence number,
  - b) The maximum number of guests permitted to reside in the premises, and
  - c) a valid Energy Performance Certificate rating, if you are required to have one for the premises
- 13) You must, for the duration of the licence, ensure there is in place for the premises—
- (a) Valid buildings insurance, and
  - (b) Valid public liability insurance providing cover of not less than £5 million.
- 14) You must pay any fees due to the licensing authority in respect of the licence on demand.
- 15) You must not provide any false or misleading information to your licensing authority.

## Additional Conditions

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.

DRAFT

## Appendix 2 - License Application Form and Checklist

### Short-term lets licence application form

#### PART 1: APPLICATION AND LICENCE TYPE

1. Please select the application type:

First application ☐ Renewal ☐ Change to existing licence ☐

New application (where property has been used as licensed STL previously) ☐

First application (existing operator\*) ☐

*\*This option is only available for applications made on or before 1 April 2023 by existing operators (ie those operating the premises in which a licence is being applied for as a short-term let on or before 1 October 2023).*

*If you are applying to renew or alter your licence, please complete the following fields. If submitting a new application where the property has never been used as a licensed short-term let before, please proceed to question 2:*

Existing licence number

Existing licence expiry date

***If you are submitting a new application where the property has been used as a licensed short-term let before, please complete the following fields.***

**Previous licence number**

**Previous licence expiry date**

**2. Please select the type of short-term let licence you require:**

Home sharing ☐

Home letting ☐

Home sharing & home letting ☐

Secondary letting ☐

**3. If you do not own the property which is the subject of this licence application, do you have proof of permission from the owner(s):**

Yes ☐

No ☐

N/A ☐

If you are applying for a change to your existing licence, please indicate the reason for your request (e.g. a change of agent, changes to the property – e.g. an extension to increase maximum occupancy).

## PART 2: PREMISES DETAILS

Premises Address ( <i>incl. postcode</i> )	
Unique Property Reference Number ( <i>if known</i> )	
Maximum number of occupants <sup>1</sup>	
Number of bedrooms	
EPC rating ( <i>if applicable – not required for home sharing or unconventional accommodation</i> )	

4. Please select the type of premises:

Detached House

☐

Semi-detached house

☐

Terraced House

☐

Flat

☐

<sup>1</sup> You may be required to submit a floor plan in order to verify the maximum number of occupants requested is appropriate. This may be a simple layout drawing showing room dimension, location of windows, doors etc.

Unconventional accommodation

☐

5. From the following options, please select the description that best describes your short-term let:

Self-catering

☐

B&B

☐

Guest house

☐

Other form of home sharing

☐

Home letting

☐

### PART 3: ABOUT YOU

6. Are you applying as an individual or corporate entity?

Individual

☐

Corporate Entity

☐

Fill in if you are applying as an individual:

First name(s)	
Surname	
Date of Birth	
Place of Birth	
Address (if different from premises address)	
Email address	
Telephone number	
Current home address (if different from premises address)	

Please provide your home address history for the last 5 years with no gaps or overlaps, starting with the most recent. Please confirm the dates you resided at these properties:

Address (history for last 5 years)	Postcode	Date from (month/year)	Date to (month/year)

7. Do you have or intend to appoint an agent or day-to day manager?

Yes

☐

No

☐

If you answered yes to question 7, please provide details for your agent(s) or day to day manager(s).

Agent(s) & Day to Day Manager(s)

Full name	5 year address history	Date of birth	Email address	Telephone number

8. Is your property jointly owned?

Yes

☐

No

☐



If you answered yes to question 8, please provide details for all joint owners.

Joint owner(s):

Full name	5 year address history	Date of birth	Email address	Telephone number

*Individuals, please go to Part 4.*

*Corporate entities, please complete the relevant sections on the following pages.*

Fill in if you are applying as a corporate entity (e.g. company, partnership, trust or charity)

Corporate entity name	
Limited company number (if applicable)	
Your first name(s)	
Your surname	
Registered or principal office address	

Names and private addresses and dates and places of birth of its directors, partners or other persons responsible for its management, including trustees in the case of charities.

Full name	Personal address	Place of birth	Date of birth

**Please complete for all other named persons on the licence (e.g. any agent or day-to-day manager):**

[illegible]

#### PART 4: CONVICTIONS

9. Has anybody named on the application been convicted of any offence? Please include details of any unspent convictions in the table below:

Name	Date	Court	Offence	Sentence

#### Privacy Notice

##### PRIVACY NOTICE

Personal Information\* collected in relation to this application may include your name, and address. This information is collected by Midlothian Council for the purposes of Law Enforcement in the exercise of our official authority as Licensing Authority for Midlothian. We may share your information with other public bodies for the performance of a task carried out in the public interest or to help prevent fraud and crime, or where we are required to do so by law.

The legislation requires that Midlothian Council

- a) 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**).

b) 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.

c) 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**). From 1 October 2022, the licensing authority must publish the content of the register, in relation to short-term let licences only, on their website or other website established and maintained for that purpose and provide access free of charge

You have a right to see the information we hold on you by making a request in writing to the email address below. If you wish to raise a complaint on how we have handled your information, you can contact our Data Protection Officer who will investigate the matter. If you are not satisfied with our response or believe we are not processing your information in accordance with the law you can complain to the Information Commissioner's Office (ICO).

Contact: Midlothian Council's Data Protection Officer at [dpo@midlothian.gov.uk](mailto:dpo@midlothian.gov.uk)

Midlothian Council's Privacy Policy can be found at

[https://www.midlothian.gov.uk/downloads/download/542/privacy\\_policy](https://www.midlothian.gov.uk/downloads/download/542/privacy_policy)

*\*Personal information is information that can be used to identify, locate, or contact an individual, alone or when combined with other personal or identifying information.*

## APPLICATION CHECKLIST

**Note - this check list must be fully completed in order to submit your application**

<b>I have enclosed the following</b> – please tick to confirm (or enter N/A)		
Completed application form	<input type="checkbox"/>	
Correct application fee	<input type="checkbox"/>	See guidance notes
Completed Fire Risk Assessment	<input type="checkbox"/>	
Annual gas certificate ( <i>for premises with a gas supply</i> )	<input type="checkbox"/>	Valid to:
Electrical Installation Condition Report	<input type="checkbox"/>	Valid to:
Portable Appliance Testing Report	<input type="checkbox"/>	Valid to:
Legionella Risk Assessment	<input type="checkbox"/>	
Planning permission ( <i>for premises within a control area or where requested by the licensing authority</i> )	<input type="checkbox"/>	Planning application reference number:
Floor plan	<input type="checkbox"/>	See guidance notes
EPC Certificate ( <i>for premises which are dwellinghouses</i> )	<input type="checkbox"/>	Valid to:
Buildings Insurance	<input type="checkbox"/>	Valid to:
Public Liability Insurance	<input type="checkbox"/>	Valid to:
Proof of consent from owner (if applicable)	<input type="checkbox"/>	
Evidence of operation as a short-term let on or before 1 October 2023 ( <i>for existing hosts applying during transitional period</i> )	<input type="checkbox"/>	

<b>I have:</b> – please tick to confirm (or enter N/A)	
Identified the owners and those involved in the day-to-day management of my premises	<input type="checkbox"/>
Ensured that to the best of my knowledge all those named on my application are fit and proper persons	<input type="checkbox"/>
<b>Prepared information that will be available to guests at the premises including:</b> <b>(a) a certified copy of the licence and the licence conditions,</b> <b>(b) fire, gas and electrical safety information,</b> <b>(c) details of how to summon the assistance of emergency services,</b> <b>(d) a copy of the gas safety report,</b> <b>(e) a copy of the Electrical Installation Condition Report, and</b> <b>(f) a copy of the Portable Appliance Testing Report.</b>	<input type="checkbox"/>
Applied for planning permission (if required).	<input type="checkbox"/>
Noted the requirement to display my licence number and EPC rating on listings for my premises	<input type="checkbox"/>
Checked if any additional licence conditions apply to me / my premises	<input type="checkbox"/>
<b>Proof that furniture and furnishings/the furniture and furnishings guests have access to comply with fire safety regulations</b>	<input type="checkbox"/>
<b>Read and understood the mandatory conditions that will apply to my licence</b>	<input type="checkbox"/>

<b>My premises:</b> – please tick to confirm (or enter N/A)	
<b>Meets current statutory guidance for provision of fire, smoke and heat detection</b>	<input type="checkbox"/>
<b>Meets statutory guidance for carbon monoxide alarms</b>	<input type="checkbox"/>
Meets the required regulations for private water supplies ( <i>for premises with a private water supply i.e not provided by Scottish Water</i> )	<input type="checkbox"/>
Meets obligations with regard to the Tolerable and Repairing standard ( <i>applicable to dwellinghouses</i> )	<input type="checkbox"/>

DRAFT

## Appendix 3 - Fees and Charges

### Initial Application or Renewal of Licence Application – Secondary Letting

Maximum No of Bedrooms/Guests	Fee (£)	Fee to Consider a Material Change (£)
Up to 4 bedrooms/8 guests	465	270
5 - 8 Bedrooms/ 16 Guests	525	315
More than 8 bedrooms/ 16 guests	660	390

### Initial Application or Renewal of Licence Application – Home Sharing/Home Letting

Maximum No of Bedrooms/Guests	Fee (£)	Fee to Consider a Material Change (£)
1 bedroom/3 guests	210	100
2-3 Bedrooms/9 Guests	250	130
4 bedrooms/ 9 guests	330	190

Other Charges	
Duplicate Licence	£35.50
Temporary Licence	60% or initial license fee
true copy of any entry on the public register	£100
Visits to the premises where the visit is necessary because of the failure of the host or operator.	£115 per hour

## Review of Fees

License fees set by Midlothian Council will be reviewed annually.

## SHORT-TERM LET LICENCE APPLICATION

The owner of the following property has made an application to Midlothian Council for a Licence to operate the property as a Secondary/Home Sharing – Home Letting Short – Term Let in terms of the Civic Government Scotland Act, 1982.

**ADDRESS:**.....

.....

**DATE:**

If you have any objection to grant of this Licence you can do this via the Midlothian Council website at xxxxx  
Or in writing to Protective Services, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3AA.

Any objections must be received by Midlothian Council within 28 days of the date given above.