

SHORT-TERM LET LICENSING POLICY

REPORT ON PUBLIC AND STAKEHOLDER CONSULTATION

Introduction

On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 (“the Act”). The effect of the order is that from 1 October 2022 the use of accommodation for short term let is an activity for which a licence is required under the 1982 Act. A Short Term Let is defined by legislation and detailed in Appendix 1 of this report. Prior to the introduction of the 2022 Order, there was no requirement to licence Short Term Lets in Scotland.

In order to ensure the licensing authority had a Short Term Lets Policy in place and were able to accept licensing applications on or after 1 October 2022, covering all the matters required by legislation, the General Purposes Committee gave permission on 30 August 2022 to hold a consultation on the draft Short Term Lets Policy.

The Consultation Process

The consultation ran on-line from 31st August 2022 to 14th September 2022 and sought views on the draft Policy and short-term let licensing in general. The questions posed are discussed below.

The responses received enabled Midlothian Council to consider these comments, and make any necessary amendments to the policy, prior to 1 October 2022.

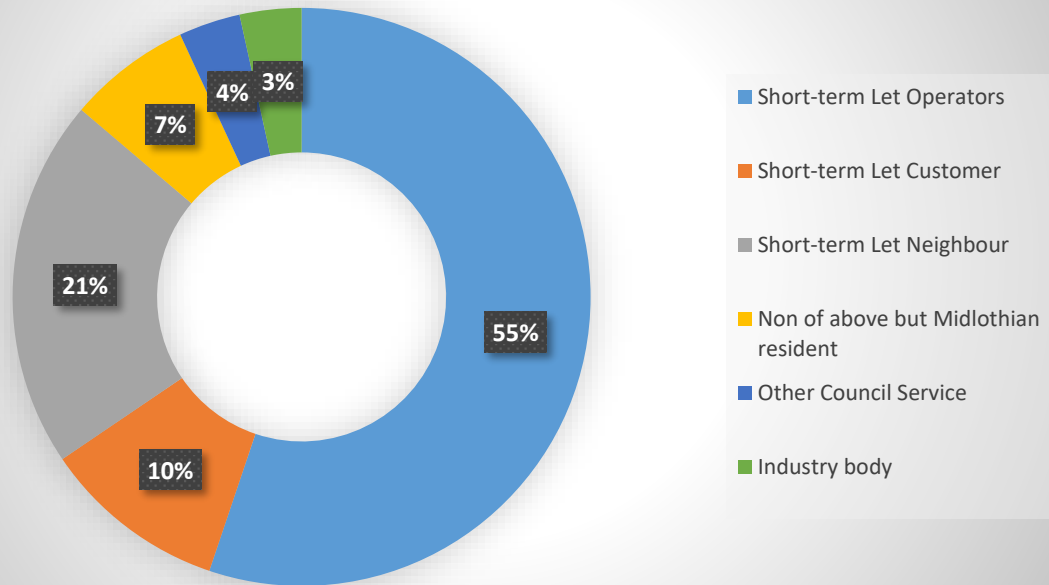
As well as a full public consultation, views were also invited from various interested parties including elected members, Police Scotland, Scottish Fire and Rescue Service, Planning and Building Standard services at Midlothian Council and the Scottish Association of Self-Caterers. The views gathered will allow full Council to consider whether any changes require to be made to the draft policy prior to final publication.

In total 29 responses were registered. Details of the responses received are given below.

The questions posed and responses received

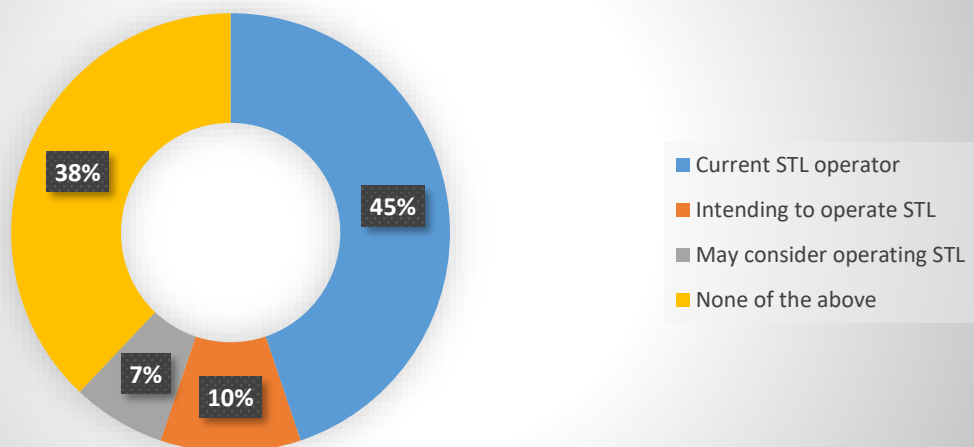
1. Which of the following apply to you?
 - a) Short-term let operator
 - b) Short-term let customer
 - c) Short term let neighbour
 - d) Midlothian resident
 - e) Visitor to Midlothian
 - f) Trade/Industry Group (please specify)
 - g) Other

Breakdown of Consultation Respondants



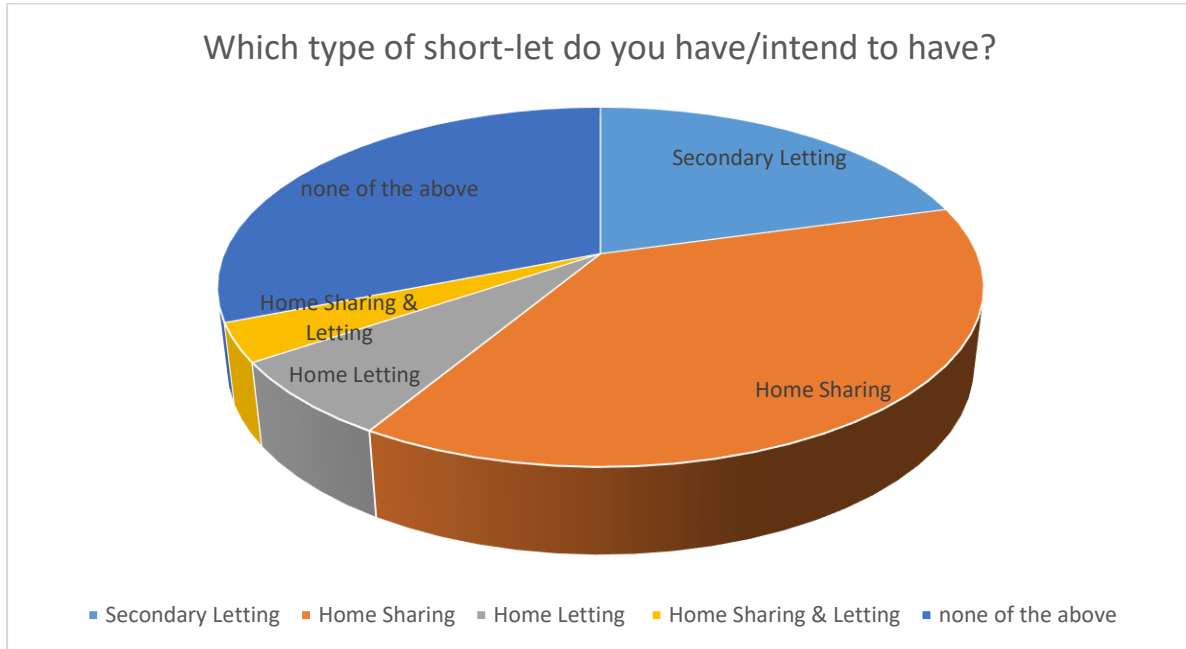
2. If you are responding as a Short-term let operator which statement best describes your position?
- I currently operate at least one short-term let in Midlothian.
 - I am intending to operate a short-term let in Midlothian in the future.
 - I may consider operating a short-term let in Midlothian in the future.
 - None of the above

If a STL operator which best describes you?



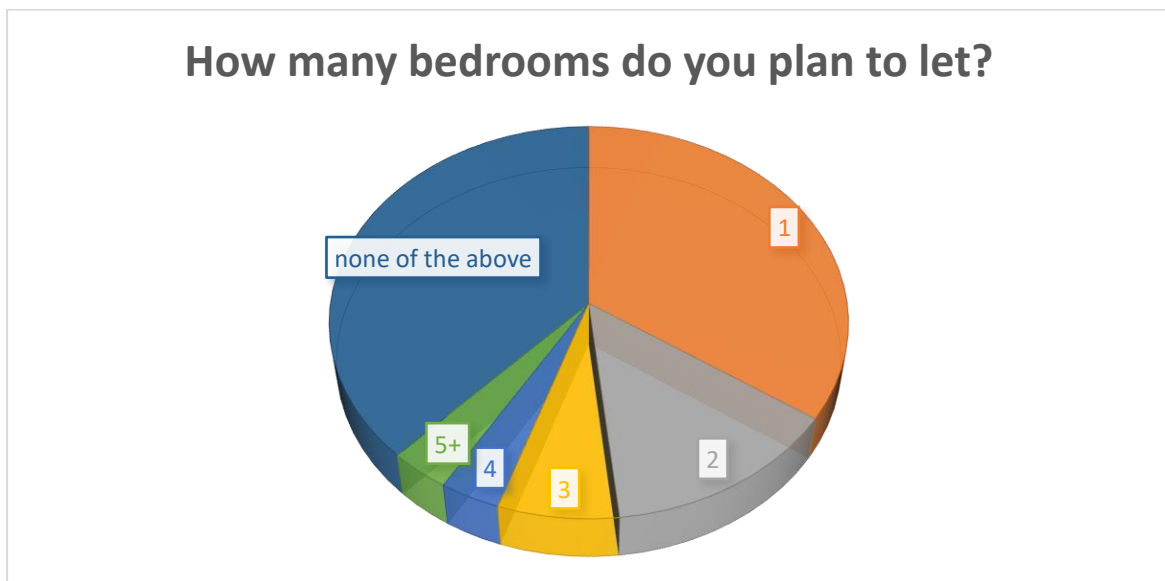
3. What type of short-term let(s) do you have or intend to have?

- a) Secondary Letting
- b) Home letting
- c) Home sharing
- d) Home Letting and Home Sharing



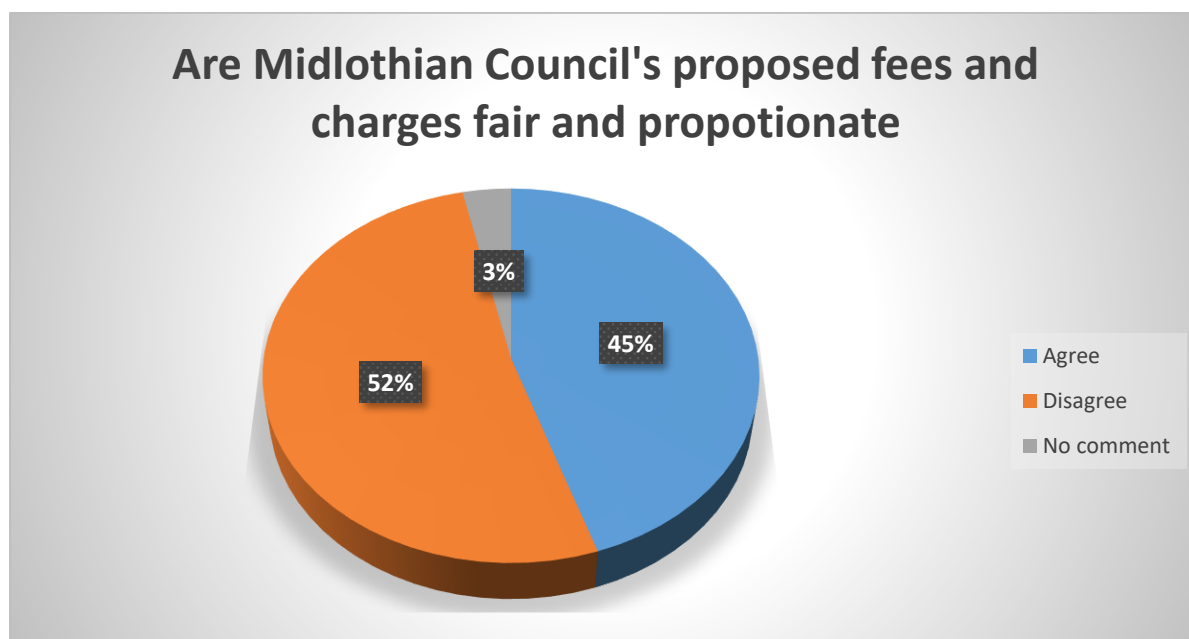
4. How many bedrooms do you have or plan to have in your property for short-term let?

- a) 1
- b) 2
- c) 3
- d) 4
- e) 5 or more



5. Fees and Charges for Licence Applications. Midlothian Council intend to base these fees on the type of short term let and the number of letting bedrooms/guests who can be accommodated. For Secondary letting these fees will range from £465 to £660 and for Home Sharing/Home letting the fees will be £210 to £330. Do you agree this method of setting fees is fair and proportionate?

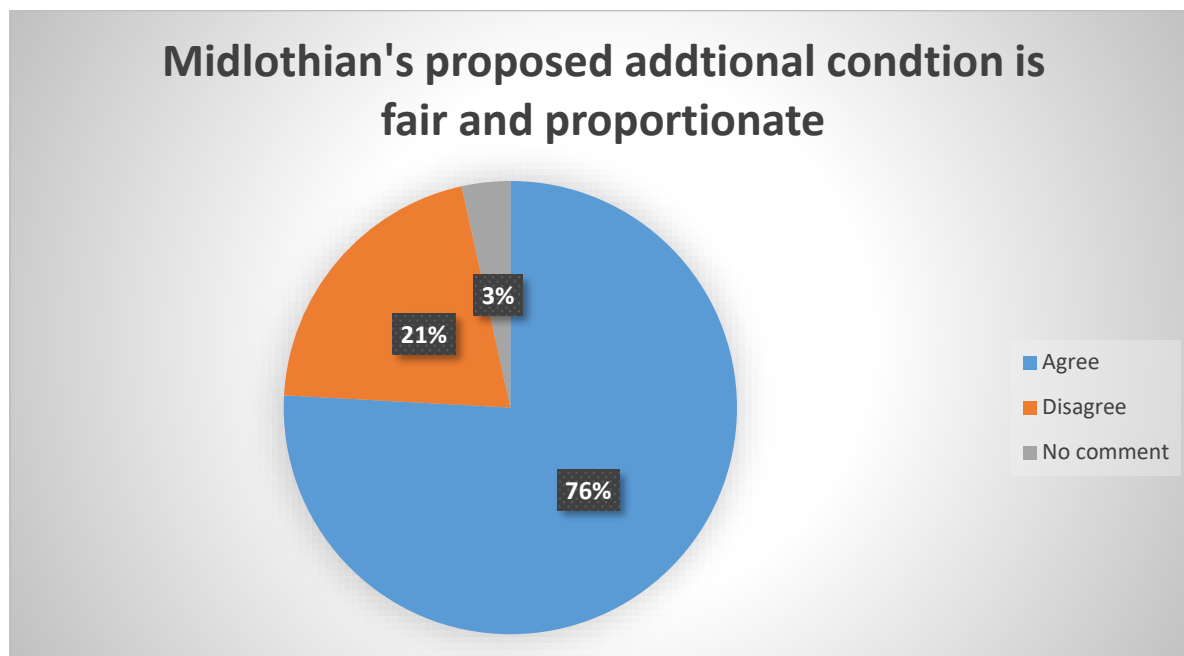
- a) Agree
- b) Disagree
- c) No comment



This question allowed respondent's to give additional comments if they wished. The comments received are given below.

Comments Received	No of Respondents with this Comment
Too high	3
too low	2
Secondary let costs should be the same home sharing/letting (regulatory checks are the same).	2
People should not have to pay to let out a room in their own home	1
There should be no charge	2
This will not solve problems	1
This will raise the cost of letting	1
Fees should be based on the number of people not the number of rooms	1
These properties should not be subject to non-domestic rates /full council tax should be paid	1
People letting out a room in their own home should pay much less than secondary letting.	3
This is another tax	1

6. Midlothian Council intend to add one licence condition in addition to those which the regulations say are mandatory. This condition states that: 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. Do you agree that this is a fair and proportionate condition?



Again this question allowed respondent's to give additional comments if they wished. The comments received are given below.

Comments Received	No of Respondents with this Comment
additional condition too vague	2
Anti-social behaviour is dealt with by other legislation	1
Landlord does not want to police antisocial behaviour	2
Is this a problem in Midlothian?	1
Suggest adding must cooperate with Council Officers and/or Police to deal with antisocial behaviour, illegal activity and noise complaints.	1
not necessary if letting agent	1

7. Please add any further comments you wish to make in the box below or any further issues you want us to consider while we develop our Short-Term Lets Licensing Policy.

The responses given to the above question are given over the page.

Additional Comments	No of Respondents with this Comment
consider extending the licensing period (5 or 10 years)	1
If additional conditions added in future should no duplicate mandatory ones and should be evidence, cost effective and enforceable	1
What about health and safety?	2
What about overprovision?	1
Survey should have been more in-depth.	1
This is not required in Midlothian	1
Not required in rural area problem is with built up areas.	1
New law is too onerous particularly for home sharing	1
Agree with antisocial conditions.	2
Checks on standards should be carried out at least randomly.	1
Will PAT testing extend to all rooms in home and not only the one let out?	1

Discussion and analysis of the responses and comments given

Questions 1 – 3

It can be seen from questions 1 - 3 that our biggest respondent group were those who were operating and considering operating short-term lets. Of those the biggest group were those who intended to home share followed by those who intend to operate a secondary let.

Question 4 indicates that of those who responded the largest group will let out 1 bedroom with a much smaller proportion of respondents letting 3 and above rooms.

Question 5

In question 5 we see that opinion is fairly evenly split between the respondents who agreed that Midlothian Councils proposal for short-term lets licensing fees and charges are fair and proportionate and those who disagreed with this statement. Respondents were also invited to leave additional comments if they wished.

Of the responses given several of the responses related to issues which decided by Scottish Government in introducing legislation to license short-term lets and its accompanying guidance and were not able to be influenced by Midlothian Council. These include *people should not have to pay to let out a room in their own home; there should be no charge; this will not solve problems; this will raise the cost of letting; this is another tax.*

Three respondents felt the fees and charges were too high and two felt they were too low. This mirrors the overall response in that slightly more people thought the fees and charges were not fair or proportionate. The fees have been rigorously calculated based on the cost to the council to set

up and maintain the scheme and are designed only to recover these costs. Costs will be reviewed annually and if initial calculations are found not to reflect the actual costs to the Council they will be amended accordingly.

Similarly there are 2 respondents who believe that the licensing fee for secondary letting and home sharing should be at the same level and 3 respondents who believe that fees for those home sharing should be less than for a secondary let. The draft policy does propose the lowest fee is for those home sharing with a sliding scale dependant on the number of rooms let and the number of people accommodated. Another respondent suggests that fees should be based on the number of people not the number of rooms. The draft policy uses both these credentials to set fees. Scottish Government guidance provides suggestions on how fees may be sets and suggests considering the type of letting; the number of rooms being offered for let and the number of people to be accommodated. Midlothian Council have used this guidance to set our fees and charges.

There is a suggestion that these properties should not be subject to non-domestic rates and should pay full council tax. There is no plans are present for short-term let properties not to pay full council tax.

Having considered all of the point above it is proposed that the fees outlined in the draft short-term let licensing policy to remain unchanged but to be reviewed annually considering among other things, the point raised during the consultation.

Question 6

More than 75% of the respondents were in agreement with the additional condition which relates to antisocial behaviour. However there were some additional comments made by respondents some whom felt that this was not an issue in Midlothian and that this may be dealt with by other agencies such as the police and letting agencies. Others commented that there should be additional requirements with regard co-operation with regulatory bodies. Some landlords did not want to have this responsibility. Two respondents felt that the condition was too vague.

The proposed condition states:

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.

There was broad general support for this additional condition. However it was considered if it could be improved. As a result it proposed to alter the condition to read:

The license holder must manage the premises

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. They must co-operate fully with Council Officers in any investigation of antisocial behaviour and noise complaints relating to their short-term let.

The policy has been updated to reflect this change.

Question 7

12 of the 27 online, and 1 of the direct respondents chose to leave additional comments with regard to the short-term let policy in general. Some of the issues raised by these respondents are covered by the short-term let licensing policy such as health and safety in the property which is covered by the mandatory conditions; overprovision which is discussed in the policy and thought not to be an issue in Midlothian presently but will be kept under review. Others relate to issues over which the Council has no control as they are required to set up and operate a short-term let licensing scheme by law. These relate to comments such as this is not required in Midlothian; not required in rural areas; the new law is too onerous.

Comment is also made regarding future additional conditions which may be added and this comment will be considered should this happen.

One respondent felt the survey should be in more depth but it was unclear if they had read the draft strategy which is very detailed and on which they could have made full comment in this section.

One respondent commented that Council Officers should carry out checks on the physical standards in short-term lets. It is our intention to do this in at least a sample of the short-term let properties.

Lastly a consultee asked if Portable Appliance Testing (PAT testing) will be required for all appliances in a home where one room is let out. We will seek guidance from the Scottish Government on this matter and feed back to the respondent directly.

Comments directly from the Planning Service

The Planning service responded to the section of the draft policy relating to other Council policies which must be considered. We have taken on board all of their suggestions and amended the policy accordingly.

Summary

Midlothian Council carried out a 15 day public consultation on the Draft Short-term Let Licensing policy. 29 responses were received in total. 27 from members of the public, one from an industry body and one from the Planning service.

The responses to the seven questions posed were analysed and considered and, where appropriate, minor changes to the draft policy were made.