Short-term Lets Licensing

Approved Policy Statement

Approved by Council 20/12/2024

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Foreword

This policy statement is a revision of the document approved by Argyll and Bute Council on the 28 September 2023. A copy of the report is available online at (Public Pack)Agenda Document for Argyll and Bute Council, 28/09/2023 10:00.

The revised Policy Statement provides guidance for applicants, licence holders, members of the public and Council officers on the licensing system for short-term lets.

This policy statement will be reviewed and revised when necessary.

Document Management

Revision	Date	Approved	Reason
STL Policy Statement v1	29 September 2022	Approved by Council	To implement scheme
STL Policy Statement 1.1	10 July 2023	Regulatory Services and Building Standards Manager	Clarification to STL hearing procedure Appendix 2
STL Policy Statement v2	28 September 2023	Approved by Council	Review of policy to reflect legislative and guidance changes, and learning from year 1 of scheme.
STL Policy Statement v3	20 December 2024	Approved by Council	To implement the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2024, address issues identified through operational work and feedback from the sector. Link to Committee papers

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1. BACKGROUND

1.1. On 19th January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 ("the 2022 Order") was approved by the Scottish Parliament. The 2022 order came into force on 1st March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 ("the Act"). The 2022 Order was amended by The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2023 ("2023 Order") which came into force on 31 March 2023.The 2022 Order was further amended by The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2024 ("2024 Order") which came into force on 31st August 2024

1.2. The Orders introduce a new mandatory licensing system for short-term lets which local authorities were required to establish by 1st October 2022.

1.3. Prior to the introduction of the legislation, there was no requirement to licence short-term lets and, therefore, local authorities did not have the ability to regulate these types of premises

1.4. The licensing scheme was enacted by the Scottish Government with the aim to ensure short-term lets are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening in their area, and handling complaints effectively. It also enabled local authorities to ensure the people providing short-term lets are suitable. The legislation aims to make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.

2. TIMESCALES FOR APPLYING

2.1. Since 1 October 2023, existing hosts and operators (those using accommodation to provide short term lets before 1 October 2022 and who applied for a licence prior to 1 October 2023) can only continue to operate if they either held a licence, or their application was yet to be determined.

2.2. New hosts or operators cannot lawfully operate (i.e. take bookings or receive guests) until their licence has been determined and they have been granted a licence.

3. DEFINITIONS

3.1. A short-term let is defined in the 2022 Order as the use of residential accommodation provided by a host in the course of business to a guest, where all 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 –

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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

(f) the short-term let does not constitute an excluded tenancy.

Commercial consideration - this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

Guest – this means a person who occupies accommodation under a short-term let

Host – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation

Immediate family member – a guest is deemed to be an immediate family member of the host if they are –

(a) your partner (spouse, civil partner or someone you live with as if you were married to them),

(b) you or your partner's parent, grandparent, child, grandchild or sibling,

(c) the partner of one of your parents, grandparents, children, grandchildren or sibling.

Excluded accommodation – this means accommodation which is, or is part of-

(a) an aparthotel

(b) 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

(c) a hotel which has planning permission granted for use as a hotel

(d) a hostel

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(e) residential accommodation where personal care is provided to residents, including guest rooms provided at that accommodation for the purposes of visiting residents

(f) a hospital or nursing home, including guest rooms provided at the hospital or nursing home for the purposes of visiting residents of the hospital or nursing home

(g) a residential school, college or training centre

(h) 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)

(i) a refuge

(j) student accommodation

(k) accommodation which otherwise requires a licence for use for hire for overnight stays

(l) accommodation which is provided by the guest

(m) accommodation which is capable, without modification, of transporting guests to another location

(n) a bothy

(o) 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 or

(p) guest rooms in sheltered housing which are provided for the purposes of visiting residents at that housing

3.2. Please note that if you have an HMO licence for your property, you still need a short-term let licence if it is also to be used for short-term lets. This is the case whether or not you live at the premises covered by your HMO licence.

3.3. Self-catering property in the grounds of a licensed hotel is excluded.

It is recommended that short-term let hosts 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.

Excluded tenancy – an excluded tenancy means a tenancy which falls within any of the following definitions:

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(a) protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984,

(b) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act),

(c) a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988),

(d) a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993),

(e) a tenancy of a holding situated outwith 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,

(f) a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001),

(g) a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001),

(h) a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003),

(i) a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003),

(j) a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003),

(k) a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003),

(l) 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),

(m) a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016),

(n) a student residential tenancy

3.4. There are four types of licences for short-term let accommodation. Any licence granted must be for either-

(a) Secondary letting

(b) Home letting

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(c) Home sharing, or

(d) Home letting and home sharing

3.5. The different types of licences are defined as follows –

(a) **Secondary letting** – this means a short-term let involving the letting of property where you do not normally live

(b) **Home letting** - this means using all or part of your home for short-term lets whilst you are absent

(c) **Home sharing** – this means using all or part of your own home for short-term lets whilst you are there. This includes guest houses or bed-and-breakfast accommodation within the host's principal residence.

3.6. A separate licence is required for each of your premises. However, a single licence may be issued in respect of unconventional accommodation where there is more than one separately bookable property on the site.

Dwellinghouse means for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc. You do not need a separate licence for short-term lets within the same dwellinghouse. For example, if you are letting out two rooms in your home, that would be covered by one licence.

Unconventional accommodation – this means residential accommodation that is not defined as a dwelling house and would include residential accommodation such as glamping pods and yurts.

4. APPLICATION AND NOTIFICATION

4.1. All applicants must complete an online short-term let licence application form. The application should be submitted online at Short term lets licence | Argyll and Bute Council (argyll-bute.gov.uk) - Paper applications will be made available upon request to short-termlets@argyll-bute.gov.uk or Tel: 01546 605519.

4.2. Applicants require to pay in full the application fee as part of the online application process or if submitting a paper application form by making a payment to Argyll and Bute Council by contacting Short-Term Lets on 01546 605519.

4.3. The Council provides a pre-application checklist on its website to assist applicants in ensuring that their application includes appropriate details and documentation. This documentation includes gas and electrical safety certificates, layout drawings of the property as required by Scottish Fire and Rescue.

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4.4. Under the terms of the Act, 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 property to which the application relates, so that it can be conveniently read by the public.

4.5. The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made to the licensing authority and how to make objections or representations. A template will be provided to the applicant once an application is submitted.

4.6. 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 will be provided to the applicant once an application is submitted.

4.7. A copy of the application may, on request, be provided to Police Scotland and the Scottish Fire and Rescue Service by the local authority. A copy may also be made available to:

- Argyll and Bute Council's Planning Department

- Argyll and Bute Council's Building Standards service

- Argyll and Bute Council's Environmental Health service

- Loch Lomond and the Trossachs Parks Authority (where the property is within the National Park)

4.8. All personal data will be processed in line with the following privacy notices:

https://www.argyll-bute.gov.uk/privacy/civic-government-licensing

4.9. Licensing authorities have 9 months to process applications from new hosts

4.10. The licensing authority will take into consideration the following when assessing occupancy – size and type of property, number of bedrooms, maximum number that can be accommodated safely and potential for noise and nuisance to neighbours.

5. OBJECTIONS AND REPRESENTATIONS

5.1. The 1982 Act permits any member of the public to submit an objection or representation in relation to an application for a short-term let licence.

5.2. To enable Argyll and Bute Council, as licensing authority ("the Council") to entertain an objection or representation, it must be:

(a) in writing (email is sufficient),

(b) specify the grounds of the objection or the nature of the representation,

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(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.

5.3. Anonymous objections or representations 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.

5.4. Late objections or representations may be considered, entirely at the Council's discretion, if the Council is satisfied that there is sufficient reason as to why it was not made in the time required.

5.5. 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 1982 Act –

(a) the applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence,

(b) 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,

(c) the premises is not suitable for the conduct of the activity, having regard to –

(i) the location, character or condition of the premises,

(ii) the nature and extent of the proposed activity,

(iii) the kind of persons likely to be in the premises,

(iv) the possibility of undue public nuisance, public order; or public safety,

(v) where there is other good reason

5.6. It should detail clearly the reasons for the objection/representation and why the applicant and/or the premises are not suitable.

5.7. 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 following privacy notice:

https://www.argyll-bute.gov.uk/privacy/civic-government-licensing

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6. DETERMINATION OF APPLICATION

6.1. Everybody named on the application form will be subject to the fit and proper test. Every application form will require consultation with Police Scotland who will carry out background checks.

6.2. Licensing authorities are responsible for determining whether you are a fit and proper person to be the holder of a licence for short-term lets. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, previous revocations of a HMO licence and providing false or misleading information in your application form.

6.3. If there are no objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Executive Director with responsibility for Regulatory Services.

6.4. If an objection or adverse representation is submitted in relation to the short-term let licence application and, this cannot otherwise be resolved, the application will be subject to a hearing at a meeting of the Council's Planning, Protective Services and Licensing Committee.

6.5. The person submitting the objection or representation will be invited to attend the meeting of the Planning, Protective Services and Licensing Committee and speak to their objection/representation. You will be given at least 14 days' notice of the hearing date.

6.6. The applicant or their representative will be invited to attend the meeting and given the opportunity to state why the application should be granted.

6.7. The Committee will be able to ask questions of both parties and, thereafter, decide whether to grant or refuse the application. The grounds for refusing an application are set out at paragraph 5.5.

6.8. Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Part 1, Schedule 7A of the Local Government (Scotland) Act 1973.

6.9. A copy of the Council's hearing procedure can be found at **Appendix 2**.

6.10. Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be provided within 10 days of that request.

6.11. If your application for a licence is refused, you cannot reapply for a licence within 1 year of that decision, unless there has been a material change in your circumstances since then.

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7. RIGHT OF APPEAL

7.1. The applicant and the person(s) making an objection/ representation have a right of appeal to the Sheriff Court.

7.2. However, they only have this right if they have taken every opportunity to state their case to the Committee as has been made available.

7.3. 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.

7.4. 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.

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

8. LICENCE DURATION AND RENEWAL

8.1. 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.

8.2. When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.

8.3. A licence shall have effect –

- for a maximum period of 3 years from the date when it comes into force; or

- for such shorter period as the licensing authority may decide at that time when they grant; or

- for such longer period as the licensing authority may decide at the time when they renew a short-term let licence

8.4. The Scottish Government's guidance for licensing authorities on short-term lets has made it clear that licensing authorities are encouraged to renew licences for a period of 3 years, unless they have good reasons to do otherwise.

8.5. Whilst each application will be decided on its own merits, it is not anticipated that licences will be renewed for a period of longer than 3 years.

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9. LICENCE CONDITIONS

9.1. The Act sets out a number of mandatory licence conditions which apply to all short-term let across Scotland. A list of these conditions can be found at **Appendix 3**.

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

9.3. There are a number of additional conditions which will apply to all short-term let properties. There also some specific additional conditions which may only apply to certain types of short-term let properties or to properties following investigation of concerns. A list of the additional licence conditions which may apply to your short-term let licence can be found at **Appendix 4**.

10. TEMPORARY EXEMPTIONS AND TEMPORARY LICENCES

10.1. The Council will not consider applications for temporary exemptions or temporary licences under any circumstances. This position will be kept under review.

11. PROVISIONAL LICENCES

11.1. The 2024 Order introduced provisional short term let licences. A provisional short term let licence can be applied for in relation to any premises that are yet to be or are in the course of being built for the use as a short term let. The type of letting that can be applied for with such provisional short term let licence is Secondary Letting, Home Sharing, Home Letting and Home Sharing and Home Letting.

11.2. All applicants who wish to apply for a provisional short term let licence must complete an application. The application should be submitted online at Short term lets licence | Argyll and Bute Council (argyll-bute.gov.uk) Paper applications will be made available upon request to short-termlets@argyll-bute.gov.uk or Tel: 01546 605519.

11.3. Applicants require to pay in full the application fee as part of the online application process or if submitting a paper application form, by making a payment to Argyll and Bute Council by contacting Short-Term Lets on 01546 605519.

11.4. This application must also be accompanied by a provisional planning certificate. This is a certificate which is signed on behalf of the planning authority which states that: (a) planning permission approved, (b) planning permission in principle or outline planning permission under the Town and Country Planning (Scotland) Act 1997 has been obtained in respect of the construction of the premises, or (c) no such planning permission is required.

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11.5. A copy of the application for a provisional short term let licence will be sent to Police Scotland, Scottish Fire & Rescue Service and the Council's Environmental Health service for consultation. In addition, a site notice will be issued to the applicant, as detailed in section 4.3-4.5 of this Policy. If an objection/ representation is received from a service/agency or a member of the public, which cannot otherwise be resolved, the application will be referred to the Argyll and Bute Licensing Committee for determination, as detailed further in sections 5 and 6 of this Policy.

11.6. If a provisional short term let licence is granted, no mandatory conditions or additional licence conditions will apply to the provisional short term let licence. The licence holder is not permitted to operate the premises as a short term let i.e. accept bookings or guests, until the provisional short term let licence is confirmed, as detailed in sections 11.13 and 11.14 of this Policy.

11.7. When the construction of the short term let premises is complete, the provisional licence holder may then apply to the Council to confirm the provisional licence. As laid down in the 2024 Order, a provisional short term let licence must be confirmed before the premises can operate as a short term let. All applicants who wish to apply for the confirmation of a provisional short term let licence must contact the Council via Short-termlets@argyll-bute.gov.uk), together with the appropriate documentation and information and full payment of the application fee. This application for confirmation must also be accompanied by: (a) the provisional short term let licence; (b) if the provisional planning certificate which accompanied the provisional short term let licence application in respect of the premises consisted of outline planning permission or planning permission in principle, a planning certificate (as detailed further in section 16 below); (c) a building standards completion certificate and (d) such other information as the Council, as the licensing authority, may reasonably require.

11.8. An application for confirmation of a provisional short term let licence will be sent to Police Scotland, and where appropriate, Scottish Fire & Rescue Service and the Council's Environmental Health service.

11.9. If an objection or adverse representation is submitted in relation to the short-term let licence application, cannot otherwise be resolved, the application will be subject to a hearing at a meeting of the Council's Planning, Protective Services and Licensing Committee.

11.10. At confirmation stage, the Council provides a pre-application checklist on its website to assist applicants, in providing supporting documentation, includes appropriate details and documentation. This documentation includes gas and electrical safety certificates, layout drawings of the property as required by Scottish Fire and Rescue

11.11. There is no requirement for the applicant to display a site notice under section 4.4- 4.6 of this Policy and there is no opportunity for members of the public to lodge objections/representations to an application for confirmation of a short term let licence

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11.12. Where the Council receive an application and fee for the confirmation of the provisional short term let licence application, if it is satisfied that following construction of the premises, the applicant would be able to secure compliance with the mandatory conditions and additional conditions, must confirm the licence

11.13. Following determination of an application for the confirmation of the provisional short term let licence application, a short term let licence will be issued to the applicant for the premises to which the provisional short term let licence related to. Upon confirmation being issued by the Council, the short term let licence will be for the duration of the period of the provisional licence or any extension granted by the Council.

11.14. A provisional short-term let licence is treated as revoked if it is not confirmed within 3 years after the date on which it was issued unless this period is extended by the Council. A provisional licence holder must submit a formal request in writing to the Council (Short-termlets@argyll-bute.gov.uk) for an extension to the Council, a minimum of 2 months from the date of expiry. An extension will be considered where the Council is satisfied that completion of the construction has been delayed by factors outwith the provisional short term let licence holder's control

12. VARIATION OF A LICENCE

12.1. A licensing authority may, at any time, whether or not upon an application made to them by the holder of the licence, vary the terms on any grounds they think fit.

12.2. A variation application cannot, however, be used to substitute a new holder of the licence for the existing one (i.e. effectively to transfer a licence) but would apply where the short-term let host is a corporate entity, and the incoming purchaser is added as a director to that body corporate.

13. TRANSFER OF A LICENCE

13.1. The 2024 Order introduced a provision which will permit a licence holder to apply to the council to transfer their short term let licence (including a provisional short term let licence) to another individual, termed a "transferee"

13.2. All applicants who wish to apply for the transfer of a short term let licence must complete an online application or circumstances agreed with the Council, on the prescribed hard copy.

The application must also be accompanied by:

(a) the short term let licence to which it relates or, if that is not possible, a statement of reasons for the failure to produce the licence;

(b) where the applicant is not the owner of the short term let premises or the land on which it is located:

i. the name and address of the owner (or, as the case may be, each owner), and

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ii. a declaration from the owner (or, as the case may be, each owner), or a person authorised to act on their behalf, that they consent to the application;

(c) where the applicant shares ownership of the premises or the land on which the premises are located:

i. the name and address of each owner, and
ii. a declaration from each owner, or a person authorised to act on their behalf, that they consent to the application.

(d) where the short term let licence is held in joint names:

i. the name and address of each licence holder, and
ii. a declaration from each licence holder, or a person authorised to act on their behalf, that they consent to the application.

(e) such other information as the Council, as the licensing authority may reasonably require.

13.3. A copy of the application for the transfer of a short term let licence will be sent to Police Scotland for consultation. If an objection/representation is received from Police Scotland in relation to the transfer of the short-term let licence application which cannot otherwise be resolved, the application will be subject to a hearing at a meeting of the Council's Planning, Protective Services and Licensing Committee.

13.4. If there is no objection/representation, the transfer application will be granted.

13.5. There is no requirement for the applicant to display a site notice and there is no opportunity for members of the public to lodge objections/representations to the transfer application

13.6. If a transfer application is granted, there will be no change to the expiry date of the short term let licence to which the application relates to.

14. COMPLIANCE AND ENFORCEMENT

14.1. Unlicenced short-term lets

(a) It is a criminal offence to carry on an activity for which a licence is required without having a licence and without reasonable excuse.

(b) The Scottish Government has set out the following timescales for hosts and operators. Please note the rules are different depending on whether you are a new host/operator or an existing host/operator –

<u>New hosts/operators</u>

- From 1 October 2022 you cannot accept bookings until you have obtained a short term let licence

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- From 1 October 2022, you cannot operate while your short term let application is being determined

Existing hosts/operators

- Applications submitted by existing hosts/operators (i.e. trading on or before 30th September 2022) which are yet to be determined, can continue to operate pending a final decision by the Council, under a deemed granted classification.

(c) The Council will maintain a public register of short-term let licence applications and licences granted. This will allow members of the public to check the licensing status of a premises being used as a short-term let.

(d) Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.

14.2. **Licenced short-term lets**

(a) Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence number includes their licence number.

(b) Hosts and operators must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition if a licence holder has not used all due diligence to prevent the offence.

(c) It is also a criminal offence for a licence holder, without reasonable cause, to fail to notify the licensing authority of a material change of circumstances.

(d) The Council may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.

14.3. **Complaints about licenced short-term lets**

(a) 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.

(b) A complaint must be relevant to the matters that the Council can take into consideration. Frivolous or vexatious complaints will not be considered.

(c) The Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened

(d) These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the

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premises. These complaints can be directed to **short-termlets@argyll-bute.gov.uk**

(e) 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.

(f) Complaints will aim to be acknowledged within 5 working days. A full response advising you of the outcome may take some time if the complaint requires further investigation. The complaint may also need to be directed to other departments within the Council other services such as Police Scotland or Scottish Fire and Rescue Service for input. Complainants will be kept up to date with progress if there is a delay in a full response being provided.

(g) Premises site visits may be undertaken by the Council as part of an investigation into a complaint.

14.4. **Enforcement**

(a) It is possible that some complaints may require enforcement action from the Council.

(b) The Act provides for several options for enforcement action if justified. This includes additional licence conditions being attached, enforcement notices or variation, suspension or revocation of the licence or in more serious circumstance pursuing a prosecution.

(c) The Council recognises the importance of having compliance issues monitored in order to ensure licensed Short-term lets are complying with licence standards and not causing an unnecessary nuisance to the community, nearby residents or neighbours. As such it will carry out a risk-based approach to enforcement, using a range of escalating informal measures, prior to an Enforcement Notice being issued and subsequently a complaint being made to the Committee in relation to the STL licence.

(d) An enforcement notice will set out the matters constituting a breach or likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.

(e) If the matter is not addressed satisfactorily by the licence holder, the Council may then consider a variation, suspension or revocation of the licence.

(f) Routine enforcement visits are funded from the application fee. However, an inspection charge will be applied for any follow up visit (s) necessary because of non-compliance with licence conditions.

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15. SUSPENSION OR REVOCATION OF A LICENCE

15.1. A licensing authority may, whether upon a complaint made to them or not, suspend or revoke a licence.

15.2. A licensing authority may order the suspension or revocation of a licence if in their opinion –

- the holder of the licence 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

- a condition of the licence has been contravened

15.3. The period of suspension can be the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix. The effect of the suspension shall be that the licence shall cease to have effect during the period of suspension.

16. PLANNING PERMISSION

16.1. The requirement for planning permission is a separate matter from licencing of short-term lets. Whether or not planning permission is required for the use of a dwelling for short- term let purposes will firstly depend on whether it is located within a Short-Term Letting Control Area. Outwith control areas, the requirement for planning permission would be a matter for the planning authority to determine on a case by case basis, depending on the nature and circumstances of the property and the manner in which it is operated. Hosts and operators must comply with both planning and licensing law.

16.2. The Council is the relevant planning authority for the Argyll and Bute area located outwith the Loch Lomond and the Trossachs National Park. The National Park Authority is the planning authority for the full extent of the Loch Lomond and the Trossachs National Park designation.

<u>Short-Term Letting Control Areas:</u>

16.3. There is a separate legislative process from licensing which allows the Council and the National Park Authorities, as planning authorities, to establish short-term let control areas. 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.

16.4. Within a control area designated by a planning authority, use of a property for short-term letting will always require express planning

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permission. The host or operator must make an application for planning permission or already have planning permission before they apply for a licence.

16.5. There are currently NO Control Areas within Argyll and Bute although it is noted that consideration and determination of a STL Planning Control Areas is a matter for both the Council and Loch Lomond and the Trossachs National Park. Information generated from the STL licensing scheme, including number, location and type of licence, may inform this work.

16.6. Please note that planning authorities could designate control areas after a premises has already obtained a short-term let licence. Licence holders would be given a reasonable opportunity to comply with the mandatory condition by submitting a planning application or application for a Certificate of Lawful Use or Development (CLUD) as soon as possible after the control area is designated. If a CLUD or planning permission is refused, this may result in the licence being refused, varied or revoked as appropriate

Outwith Control Areas

16.7. 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, although you may also require permission where a premises has resulted in the subdivision of a residential plot where it is an annex or garage that has been converted. This is determined on a case by case basis and will depend very much on the nature of the dwelling to be let, its relationship to neighbouring land uses, its servicing arrangements, and the manner in which the property will be operated.

16.8. Hosts and operators are, therefore, encouraged to engage with the relevant planning authority prior to submitting a licence application to confirm whether they require planning permission or a certificate of lawful use of development.

Detailed enquiries can be submitted for review and assessment through the Council's chargeable pre-application advice service: Pre-Application Guidance (argyll-bute.gov.uk)

Contact details for Loch Lomond and the Trossachs National Park planning service: Planning - #LetsDoNetZero -Loch Lomond & The Trossachs National Park (lochlomond-trossachs.org)

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17. EQUALITY

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

17.2. Prior to the Committee implementing this policy an equality impact assessment was undertaken. This can be viewed using the following link: Equality and Socio-Economic Impact Assessments (argyll-bute.gov.uk)

18. FEES

18.1. Licensing authorities are required to charge fees in respect of processing and determining, the consideration of applications, the issue of duplicate licences and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically.

18.2. Licensing fees are non-refundable. Whether or not a licensing application is granted, the Council incurs significant costs in processing the application.

18.3. The Council has considered the following criteria in the process of determining the fees:

- The size of the premises
- The number of rooms at the premises
- The number of guests who can reside at the premises
- The type of short-term let

18.4. Licence fees are set by the Council annually as part of the budget process. Fees and charges is available via this link to the Councils website.

18.5. For indicative purposes the application and renewal fees for short term let licensing for 2024/25 are shown below:

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Application and renewal – full licence

Guest capacity applied for (including children under the age of 10)	Home sharing or home letting licence	Secondary letting licence
Up to 4	£253.90	£355.05
5 to 8	£355.05	£507.85
9 to 12	£558.40	£761.80
13 to 20	£711.25	£1015.75
21 and over	£914.60	£1269.65

Provisional licence

Guest capacity applied for (including children under the age of 10)	Home sharing or home letting licence	Secondary letting licence
Up to 4	£53.90	£155.05
5 to 8	£155.05	£307.85
9 to 12	£358.40	£561.80
13 to 20	£511.25	£815.75
21 and over	£714.60	£1069.65

Other types of application	**Fee**
Variation of licence / change in circumstances	£86.50
Confirmation of a provisional STL licence application	£200.00
Duplicate licence	£46.05
Transfer of a licence	£86.50
Application to extend provisional short-term let licence	£86.50
Enforcement costs Officer hourly cost in 15 minute intervals (e.g. inspection of a premises in response to complaints/intelligence or where concerns are flagged at the application process by a consultee) * ***Where a fee is charged for such a visit, a report must be provided to the host or operator within 28 days of the inspection, unless otherwise agreed. Otherwise, the 50% of the fee will be refunded to the licence holder**	£105.95/hour

18.6. Routine enforcement visits are funded from the application fee. However, an inspection charge will be applied for any follow up visit (s) necessary because of non-compliance with licence conditions.

18.7. The fee charged is weighted according to guest numbers with the unit fee being the cost of dealing with an application for 5-8 person secondary let licence. Applications for premises with larger numbers of guests are likely to require more enquiries, or attract more representations, or objections, which require to be dealt with as part of the application.

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Guest capacity (People)	Home sharing and home letting licence	Secondary let licence
Up to 4	0.5	0.7
5 to 8	0.7	1.0
9 to 12	1.1	1.5
13 to 20	1.4	2.0
21 and over	1.8	2.5

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APPENDIX 1 – CONTACT DETAILS

Telephone – 01546 605519

Email – Short-termlets@argyll-bute.gov.uk

Postal Address –

Short-Term Lets Licensing,
Argyll and Bute Council,
Kilmory,
Lochgilphead,
Argyll,
PA31 8RT

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APPENDIX 2 – HEARING PROCEDURE

SHORT TERM LET LICENSING PROCEDURE FOR HEARINGS

Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

1. Chair will welcome, introduce everyone, outline the procedure and receive confirmation that both the Applicant and objector(s) accept the hearing procedure. If the representations/objection(s) were submitted timeously and there are no spent convictions to be considered, then proceed directly to number 4.

2. If the representation/objection (from the Police or any other party) has been received late the Committee must hear details as to why the representation / objection was late and be satisfied that there is sufficient reason why it was not made in the time required. If they agree that, then the representation/ objection can be heard, otherwise it should be disregarded. The process to be followed should be that the objector is invited to provide reasons as to why the submission was late. Members may ask any follow up questions of the objector. The applicant must then be asked if they have any objections to the late submission being accepted. The Committee must take all comments into account when deciding whether to accept the late submission.

3. If spent convictions are to be referred to then the guidance notes for spent convictions should be followed for each conviction.

4. The hearing procedure below should now be followed:

    (a) The Licensing Officer will present the report to the Committee.

    (b) The applicant or Agent, will be given the opportunity to speak in support of their application.

    (c) Any objector, or Agents, will have the opportunity to question the Applicant or Agent on matters related only to their presentation.

    (d) Objectors, or their Agents, will have the opportunity to speak in support of their objection.

    (e) The Applicant, or Agent, will have the opportunity to question any Objector, or Agent, on matters related only to their presentation.

    (f) The Committee Members, through the Chair may ask questions of the Applicant or Objector or their Agents for clarification.

    (g) The Chair will invite the Objector, or Agent to briefly summarise their points if they wish.

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(h) The Chair will invite the Applicant, or Agent to briefly summarise their points if they wish.

(i) The Chair will confirm that everyone has had a fair hearing.

(j) The Committee will debate and determine the application in the presence of Applicant/Objector.

DECISION

1. A determination of the case will be made at the conclusion of the hearing and all parties will be notified of the decision in writing within 7 days of the hearing and shall be advised of his/her right to seek written reasons and appeal to the Sheriff Court.

2. If the decision of the Committee is to suspend, refuse or refuse to suspend a licence, a relevant person has a right to request within 28 days of the meeting, the Committee's reasons for arriving at their decision. Unless the circumstances of the case justify immediate suspension, the suspension shall not take effect for 28 days from the date of the decision.

3. Appeals against the decision of the Committee must be lodged with the Sheriff Clerk within 28 days of the date of the decision.

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APPENDIX 3 - MANDATORY LICENCE CONDITIONS

Agents

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

Type of Licence

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

Fire Safety

3. The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of —

(a) fire or suspected fire, and

(b) the presence of carbon monoxide in a concentration that is hazardous to health.

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

Gas Safety

5. Where the premises has a gas supply –

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

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

Electrical Safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must –

(a) ensure that any electrical fittings and items are in

(i) a reasonable state of repair, and

(ii) proper and safe working order

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(b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,

(c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,

(d) arrange for a competent person to

(i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and

(ii) date label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006(2).

Water Safety: Private Water Supplies

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

Water Safety: Legionella

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

Safety and Repair Standards

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

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

Maximum Occupancy

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

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Information to be displayed

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

(a) a certified copy of the licence and the licence conditions

(b) fire, gas and electrical safety information

(c) details of how to summon the assistance of emergency services

(d) a copy of the gas safety report

(e) a copy of the Electrical Installation Condition Report, and

(f) a copy of the Portable Appliance Testing Report.

(g) instructions as to what guests should do in the event that the carbon monoxide alarm sounds,

(h) if there is a mobile gas cabinet heater in the premises, safety instructions as to the operation and movement of that mobile heater

Planning Permission

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

(a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or

(b) planning permission under the 1997 Act is in force.

Listings

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

(a) The licence number, and

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

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

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Insurance

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

(a) valid buildings insurance for the duration of the licence, and

(b) valid public liability insurance for the duration of each short-term let agreement.

Payment of fees

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

False or misleading information

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

Interpretation

18. In this schedule —

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

(a) the date on which the inspection was carried out

(b) the address of the premises inspected,

(c) the name, address and relevant qualifications of the person who carried out the inspection,

(d) a description, and the location, of each installation, fixture, fitting and appliance inspected,

(e) any defect identified,

(f) any action taken to remedy a defect,

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

"**Gas safety report**" means a report containing the following information —

(a) the date on which the appliance or flue was checked,

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(b) the address of the premises at which the appliance or flue is installed,

(c) a description of and the location of each appliance or flue checked

(d) any safety defect identified,

(e) any remedial action taken,

(f) confirmation that the check undertaken complies with the requirements of an examination of—

(i) the effectiveness of any flue,

(ii) the supply of combustion air,

(iii) subject to heat

(iv) its operating pressure or heat input or, where necessary, both,

(v) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance

(vi) its operation so as to ensure its safe functioning

(g) the name and signature of the individual carrying out the check, and

(h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998

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APPENDIX 4 - ADDITIONAL LICENCE CONDITIONS

SHORT-TERM LETS: PROPOSED ADDITIONAL CONDITIONS

Introduction

Argyll and Bute Council consider that additional conditions should be applied to short-term let licences in its area. These derive from (a) the Part 2 Guidance for licensing authorities and (b) issues relating to guest safety which the Council has identified in its area and for which it considers additional licence conditions are necessary and appropriate.

The "Part 2" additional conditions, are based closely upon the examples provided by the Scottish Government. These conditions would be generally-applicable to all licences, although some, for instance those relating to impact noise are not necessary for detached premises with no party structures.

The guest safety conditions are intended for specific premises where certain facilities and amenities are provided for the use of guests (this would require a declaration on the application form). Alternatively, the conditions could be generally-applied with a conditional clause; the draft guest safety conditions are in the latter form.

Antisocial Behaviour

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:

    - Ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;

    - 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

    - Ensure that 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.

3. The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas where or at times it would impact neighbouring residents.

Privacy and Security

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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:

   - Guests know and understand any particular rules applying to shared areas and entrances;

   - Guests understand that shared doors should be properly and securely closed after use; and

   - 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.

Noise Control in Flatted Premises

1. Where the premises are a flat above another dwellinghouse, the licence holder must:

   - Fit and maintain carpets (with appropriate underlay) or other suitable noise suppressing floor covering to the floors of bedrooms, living room and any hallway.

   - Take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 2300 and 0700. The licence holder must advise guests of this condition as part of their booking terms and conditions.

Littering and Waste Disposal

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

2. The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of bins for collection at the appropriate time and day.

3. The licence holder must advice guests of:

   - Their responsibilities;

   - The use of the bins etc. provided for the premises; and

   - The location of the nearest recycling area or recycling point.

4. The licence holder must:

   - Clearly label bins as belonging to the premises;

   - Maintain the bins storage area and the exterior of the premises in a clean and tidy condition.

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Damage to Property

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

ADDITIONAL CONDITIONS FOR GUEST SAFETY

Legionella risk assessment – spa pools/hot tubs

1. Where a spa pool, including any electric hot tub or wood-fired hot tub, is provided for the use of guests, the licence holder must install, maintain and operate it so it can be safely operated and used by guests.

2. The licence holder shall ensure, so far as is reasonably practicable:

    - That any such spa pool is installed and maintained in accordance with the guidance in HSE publication HSG282 Control of legionella and other infectious agents in spa-pool systems.

    - That there is a risk assessment and written scheme of control for Legionella in respect of any such spa pool.

    - That the risk assessment and written scheme of control are lodged with any application for a licence and are to the satisfaction of the licensing authority.

    - That, prior to any spa pool being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and the risk assessment and written scheme of control shall be submitted at the time of such notice.

3. The licence holder shall provide guests with information on the safe use of the spa pool in accordance with the written scheme of control.

4. The licence holder shall not provide or install any inflatable hot tub for the use of guests without the prior written approval of the licensing authority. Note that the licensing authority will not give approval in respect of inflatable hot tubs not intended for commercial use and which cannot conform to the requirements of HSG282.

Guest safety – swimming pools and ponds

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1. Where a swimming pool or swimming pond is installed and provided for the use of guests, the licence holder must take reasonable measures to ensure water quality and bather safety.

2. The licence holder shall ensure:

    - In the case of swimming pools, and swimming ponds, that a pool safety operating plan is prepared and lodged with any application for a licence and is to the satisfaction of the licensing authority. The licence holder shall have regard to the guidance in HSE publication HSG179 Health and safety in swimming pools.

    - In the case of swimming pools and swimming ponds, that a bather safety plan is prepared and lodged with any application for a licence and is to the satisfaction of the licensing authority. The bather safety plan shall include measures to minimise the risk of bathers getting into difficulty, to facilitate the rescue of bathers in difficulty and to call for the assistance of emergency services where necessary.

    - That, prior to any swimming pool or pond being brought into use for the first time during the period of the licence, at least 28 days' notice shall be given to the licensing authority and the pool safety operating plan and bather safety plan shall be submitted at the time of such notice.

3. In this condition, "swimming pond" means an outdoor body of untreated water in natural ground which has been excavated or modified to provide a facility for swimming. It does not include natural watercourses, fresh-water lochs or coastal waters.

4. This condition does not apply to swimming pools which are staffed and operated with continuous poolside supervision by trained lifeguards.

Risk of Carbon Monoxide – Barbecue Huts

1. Where a barbecue hut is installed and provided for the use of guests, the licence holder must take reasonable steps to ensure that the risk from Carbon monoxide is minimised.

2. The licence holder shall, so far as is reasonably practicable:

    - Install, maintain and operate the barbecue hut only in accordance with the manufacturer's instructions.

    - Install and maintain in proper working condition a Carbon monoxide monitor and alarm within the barbecue hut.

    - Provide guests with instructions on the safe use of the barbecue hut, the symptoms of Carbon monoxide poisoning and the actions to be taken in an emergency.

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- Not permit the use of the barbecue hut by persons under the age of 18 except in the presence of a person over the age of 18.

- Not permit the use of a barbecue hut as sleeping accommodation.

3. For the purposes of this condition, a barbecue hut is a purpose-built, structure including a fixed hearth, and fixed ventilation supplying both fresh air to the hearth and extracting the products of combustion from the occupied space.

Wood Burning Stoves/open fires

1. The Licence holder must declare to the Council the use of any solid fuel, multi-fuel or wood burning stoves/ open fires) for both indoor and outdoor use for guest use.

2. The Licence holder must ensure that any solid fuel, multi-fuel or wood burning stoves/ open fires are included within the properties fire risk assessment; and provide information to guests on their safe operation.

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