

OFFICER'S COMMENTS ON THE CONSULTATION RESPONSES

User information:

- 90 responses were received to the online consultation.
- 89 of the responses were from postcodes within Perth and Kinross area.

General comments:

- A substantial number of the responses refer to criticism of the legislation as a whole and disagreement with the introduction of a licensing scheme.

Analysis and Response

- The licensing scheme is a mandatory scheme being brought in by the Scottish Government which the Council must implement by 1 October 2022. The Council has no discretion over this.
- The majority of the licensing requirements are set by the legislation. The legislation also sets out the mandatory conditions which all operators must comply with.
- The Council has some discretionary powers within the licensing scheme, these are:
 - a. Whether to introduce additional conditions for licences and, if so, whether these should apply to all or only certain types of short term let properties;
 - b. Whether to introduce temporary exemptions in requirements to have a short term let licence;
 - c. Whether to apply additional conditions to any temporary exemptions granted;
 - d. Whether to apply additional conditions to any temporary licences granted.
- It is considered that the draft policy statement addresses these discretionary issues appropriately and proportionately.

Maximum occupancy of a short term let property:

- Three responses received thought children under the age of 10 should not count towards the occupancy of a premises.

Analysis and Response

The draft policy indicates that children under the age of two who occupy a cot will not be counted towards the maximum occupancy. This is a similar model to other Councils. It is considered that this approach is a proportionate response to ensure that the occupancy of premises is managed appropriately.

Proposed additional conditions:

- Six responses were received with concerns regarding the application of additional conditions. For example, some responses indicated that they thought that all premises would have an additional condition that premises need to be carpeted. Concern was raised that it was not clear when additional conditions would be applied.
- Concerns were raised about licence holders having 'to ensure' guests would follow the specified rules rather than 'taking reasonable steps'.
- Concerns were raised about the practicality of restricting guests to certain arrival and departure times given early travel connections or transport delays.

Analysis and Response

- It should be noted that the proposed additional conditions are not blanket conditions to be applied to all short term let properties from the outset and will only be applied if deemed high risk or deemed necessary. This is set out in paragraph 9.2 of the draft policy statement.
- In relation to the strength of the obligation placed on licensees, it is considered that the wording in the draft appropriately reflects the nature of the licensee's obligations. The Council operates a system of proportionate and risk-based enforcement which will equally apply to enforcement of licence conditions.
- In relation to arrival and departure times, this would be dealt with through an additional condition only where there is a justification for doing so. The suggested draft condition makes it clear that hosts should take reasonable steps to manage arrival and departure. Further conditions relating to this issue would require to be proportionate.

Fees

- 22 responses were received with comments on costs and fees.
- 10 were concerned that the fees were set too high.
- Concerns were raised that there is a differentiation in fees between the different licence types and that they should be the same for all licence types.
- A concern regarding the fee structure was raised and a suggestion that businesses should be paying one fee and then an additional fee for each additional property.
- Concerns that there was no reduction for renewal applications.
- Concerns that a home sharing licence and a secondary letting licence were differing in licence fee costs and that they should be paying similar costs in fees.
- Concern that those with a secondary property paying double the amount compared to those only letting out part of their home.
- Concern that the fee structure should be reduced for lower capacity rentals.

Analysis and Response

As indicated in the Committee report, the Council is required to set fees for licence applications. Under the 1982 Act the Council must ensure that the costs of operating the licensing scheme are covered by fees charged to applicants, so that the Council is not subsidising the licensing system.

Statutory guidance also states that the fee structure should differentiate between the types of short term let licence and should be graded to reflect the different size of properties.

- The draft fees have been proposed in order to comply with those requirements.
- As indicated in the report, officers will keep the policy statement (which includes fees) under review during the initial phase of the licensing scheme and will revert to Committee with any proposed changes if required.

Suitability of properties:

- A number of concerns were raised about flats with shared entrances or in blocks of apartments in largely residential areas, relating to noise or nuisance issues, for example; noise, rubbish, smoking in shared areas, lack of parking and general intrusion on those that are permanent residents.

Analysis and Response

- From a licensing point of view, these are issues which can be addressed on a case by case basis either through use of licensing conditions or through enforcement.
- Any application made where there are objections relating to the suitability of the premises will be considered by the Licensing Committee.

Layout Plan/Floor Plan

- Nine comments were received regarding the host/operator having to submit a layout/floor plan of the property at a scale of 1:50.
- Concerns were raised about the costs associated with submitting a layout plan/floor plan and were they necessary.

Analysis and Response

- These views have been considered, and the requirement for a layout plan has been removed from the draft policy statement. This will be kept under review.

Licence Renewal Period

- Concerns were raised that the licence renewal period was not long enough and should be either 5 or 10 years.
- Concern that the renewal period was not longer for rural properties.

Analysis and Response

- The legislation limits the period of a first licence to a maximum of three years.
- As indicated in the Committee report, officers will keep the policy under review (including fees) and will consider the position in relation to renewal fees prior to the end of the first three year period of operation of the scheme.

Temporary Licences and Temporary Exemptions

- Concerns were raised that those that applied for a Temporary Licence or Temporary Exemption would not have to comply with Mandatory Conditions and any Additional Conditions.

Analysis and Response

- In relation to temporary exemptions and temporary licences, there is a mechanism for including conditions on the exemption or licence. This is already reflected in the policy at paragraphs 11.2 and 12.6.

Other Comments:

- Several comments were received asking specific questions regarding individual premises and how they will be affected by short term let licensing.
- Some comments and questions were received regarding planning matters.
- 11 responses were received in favour of the licensing scheme commenting on the shortage of housing in certain areas.
- One consultee asked that an insertion be made within the policy's complaints section which should state that neighbours should contact the Host/Operator in the first instance prior to making a complaint to the Council.
- Concerns that it would take nine months to process a licence and felt this was too long to wait.
- Concern as to when renewal application should be submitted.
- Concerns that the request for House Rules/Code of Conduct were unnecessary.
- Request that 'group style' licensing be introduced to avoid 40 plus applications being submitted.
- A suggestion that an example of an 'other relevant consideration' be provided at Section 7.8 of the policy statement.
- Concern that existing hosts/operators who have to provide evidence at the time of application of bookings made prior to the 1 October 2022 would be breaching GDPR.

Analysis and Response

- Unless consultees have provided contact details, we are unable to respond to questions about individual premises. Methods of communication for hosts and operators are advertised on the Council website.
- In relation to complaints, an amendment has been made to the policy to advise neighbours who have a complaint to contact the host or operator in the first instance prior to making contact with the Council. This is consistent with the approach taken in relation to complaints for other licences.
- For clarity, existing hosts can continue to operate while their licence application is being considered. There is a statutory maximum period for processing licences. While the licensing department seeks to issue licences in a timely manner, given the scale of applications expected, this statutory period will allow the department to manage their workload.
- Information about licence renewal will be published on the Council website prior to the end of the first three-year period.
- House rules/code of conduct will only be requested if a complaint is received, or in carrying out spot checks for compliance purposes.
- In relation to “group style” licensing, the statutory framework requires a licence for each premises.
- In relation to section 7.8 the wording reflects the legislation which allows the licensing authority to make inquiries in relation to an application and take account of the outcome of those when considering the application.
- In relation to UK GDPR there will be no requirement to divulge personal information relating to customers.