

Item: 6

Licensing Committee: 1 September 2022.

Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 – Fees for Short-term Let Licences.

Joint Report by Corporate Director for Strategy, Performance and Business Solutions and Corporate Director for Neighbourhood Services and Infrastructure.

1. Purpose of Report

To consider fees in respect of the short-term let licensing scheme in Orkney, effective from 1 October 2022, following public consultation.

2. Recommendations

The Committee is invited to note:

2.1.

That, on 22 June 2022, when considering proposed fees, effective from 1 October 2022, for the short-term let licensing scheme in Orkney, the Licensing Committee resolved:

- That the proposal that licences for short-term lets have a duration of three years at first application and on renewal be approved for public consultation for the period from 27 June to 7 August 2022.
- That the fees for the short-term let licensing scheme to be introduced on 1 October 2022, attached as Appendix 1 to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, be approved for public consultation for the period from 27 June to 7 August 2022.
- That the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure should submit a joint report, to the meeting of the Committee to be held on 1 September 2022, on the outcome of the public consultation, referred to above, together with the proposed fees for the short-term let licensing scheme, and duration of licences, to be effective from 1 October 2022.

2.2.

That a comparison of proposed fees to be charged by the Council with those to be charged by other local authorities in Scotland has been undertaken, attached as Appendix 2 to this report.

2.3.

That the statutory consultation process was undertaken during the period 27 June to 7 August 2022 inclusive, with the outcome summarised at sections 9 and 10 of this report.

2.4.

The full consultation responses, attached as Appendices 3, 3A and 3B to this report.

2.5.

The options in respect of setting application fees for licences for short-term lets, as detailed in section 11.3 of this report, with the preferred option being Option 2, namely simplifying the structure by removing the highest fee, amalgamating the lowest two bands, and reducing fees across the board by 20%.

It is recommended:

2.6.

That licences for short-term lets should have a duration of three years at first application and on renewal.

2.7.

That, where an application for a short-term let licence has been unsuccessful and a licence refused, the non-refundable element of the application fee should be capped at £240.

2.8.

That the fees for the short-term let licensing scheme, to be introduced on 1 October 2022, attached as Appendix 5 to this report, be approved.

2.9.

That the fees for the short-term let licensing scheme be reviewed annually, commencing in March 2024.

3. Legislative Background

3.1.

Mandatory licensing of short-term lets in Scotland will be introduced from 1 October 2022 through the implementation of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the Order).

3.2.

The provisions relating to fees are set out in Paragraph 15 of Schedule 1 to the Civic Government (Scotland) Act 1982 (the Act), as amended by the Order.

3.3.

Sub-paragraph 15(1) of Schedule 1 to the Act states that a licensing authority may, subject to sub-paragraphs (2) and (3) charge such reasonable fees as they may determine in respect of:

- Applications made to them under this schedule.
- The issue of certified duplicate licences.
- Their consideration of a material change of circumstances or in premises and their disposal of the matter.
- The issue of certified true copies.
- An inspection of premises following:
 - A failure to comply with a licence condition, or
 - A complaint relating to the premises (unless the complaint is frivolous or vexatious).

3.4.

Paragraph 15(2) of Schedule 1 of the Act states that, in determining the amount of the different fees under sub-paragraph 15(1), the licensing authority:

- Must seek to ensure that the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority in exercising their functions under Parts I and II of the Act and the schedule.
- May determine different fees for different purposes.
- May take into account the following criteria:
 - The size of the premises.
 - The number of bedrooms at the premises.
 - The number of guests who can reside at the premises.
 - The type of short-term let.
 - The duration of the period for which the premises are made available for use as a short-term let.
 - The extent to which the licence holder has complied with the conditions of the licence.

3.5.

Paragraph 15(3) of Schedule 1 of the Act states that a licensing authority may provide for annual or other recurring fees.

4. Scottish Government Guidance

4.1.

In March 2022 the Scottish Government issued an updated version of its Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms (the Guidance).

4.2.

With regard to setting fees, the Guidance notes that licensing authorities are experienced in running other forms of licensing schemes and keeping costs down. In line with this, the Scottish Government expects licensing authorities to have regard to minimising costs through:

- Economies of scale.
- Integrating service delivery with other housing and licensing functions.
- Using online and digital verification where possible, for example through photo and video evidence instead of a visit.
- Taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher.

4.3.

The Guidance also states that licensing authorities must not charge:

- Hosts or operators for visits to premises where this is a routine part of processing an application or part of the licensing authority's ongoing assurance processes; or
- Neighbours or others for handling objections.

4.4.

It is settled law that the fee charged for processing an application should not include enforcement costs. A licensing authority may charge fees to cover enforcement costs once the application is granted. The monitoring and enforcement of all licences provided under the Civic Government (Scotland) Act 1982 including short-term lets will be the subject of a future report to the Committee.

4.5.

As noted in section 3.4 above, in setting fees, the licensing authority "may take into account" the size of the premises, number of rooms, number of guests, type and duration of short-term let and the extent to which the licence holder has complied with the conditions of the licence. The Guidance states that the Scottish Government expects licensing authorities to consider each of these criteria, even if they subsequently deem some may not be suitable for the local circumstances.

4.6.

The Scottish Government does not expect licensing authorities to set a uniform flat fee, as this might disproportionately benefit hosts and operators of larger premises and adversely affect home sharing, bed and breakfasts and smaller self-catering operators.

4.7.

The Scottish Government recommends as a minimum that licensing authorities establish a licence fee structure that takes account of the following:

- Type of licence, with lower fees for home sharing and home letting licences than for a secondary letting licence.
- Guest capacity – the intended maximum number of guests, as requested by the host or operator on their application form.

4.7.1.

Within this recommended fee structure, licensing authorities may decide to group guest numbers into bands.

5. Comparison with Other Scottish Local Authorities

5.1.

The proposed fees to be charged by the Council, which were circulated for consultation, are attached as Appendix 1 to this report.

5.2.

A comparison of proposed fees to be charged by the Council with those to be charged by other local authorities in Scotland has been conducted, with the outcome detailed in Appendix 2 to this report.

5.3.

The information in Appendix 2 was collated following a request made to each of the 31 other local authorities in Scotland. Ten responses were received. Of those ten responses, five confirmed that they had not yet calculated or published any fee proposals.

5.4.

Of the five local authorities which have published fee proposals, the Council's proposals are comparable with Aberdeen City and Perth and Kinross, although more expensive than Glasgow City, North Ayrshire and Western Isles. Glasgow and North Ayrshire may benefit from economies of scale, and North Ayrshire have highlighted that their published proposals are "place holders" until they can get a better handle on their costs.

5.5.

Fee proposals are one half of the equation, with costs being the other. While it is interesting to compare what fees are being proposed by other local authorities, there can only really be a true comparison when the estimated costs and assumptions are also known. For example, some local authorities may be assuming a 10% inspection rate, whereas others may be assuming a much higher inspection rate. There are also huge disparities in the geographical areas covered, and the number of properties likely to require licensing in each local authority area. The estimated costs and assumptions of other local authorities are not known, and this information is not publicly available.

5.6.

The Council cannot hope to match the economies of scale which are likely to be achieved by some of the Councils proposing the lowest fees, such as Glasgow City Council. There will also be huge variations in the cost of carrying out site visits across local authorities. These points serve to illustrate just how complex it is to make meaningful comparisons between different local authorities' fee proposals.

6. Proposed Charges

6.1.

An explanation of the basis on which the Council's original fee proposals were calculated was set out in sections 7.1 to 7.17 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure to the Committee on 22 June 2022.

6.2.

The starting point for setting fees involves calculating the amount of officer time and other costs likely to be involved in processing each application and multiplying this by the number of applications anticipated. Allowance needs to be made for applications for larger or more complex premises to take longer to process than average. Other costs that require to be covered include the costs of setting up the scheme, dealing with enquiries and complaints, and premises inspection.

6.3.

The estimated number of potential short-term let licence applicants across Orkney is 600. This estimate is based on numbers provided by the Assessor and Electoral Registration Officer, the Council's Revenues Section, and an assessment of the number of Orkney properties featured on lettings website Air BnB. However, sensitivity analysis has also been undertaken using a figure of 450 applications.

6.4.

In line with the legislative provisions set out in section 3.4 above, the proposals contain different levels of fees depending on the number of guests to be accommodated. It is worth noting that, where an application is received with a

suggested occupancy of ten people or more, the application will trigger more significant involvement from Building Standards.

6.5.

When formulating the original proposals, officers took into account the fact that the Business and Regulatory Impact Assessment (BRIA) highlighted parallels with Houses in Multiple Occupation licensing. Officers also took into account the Scottish Government guidance summarised in section 4.7 above, with additional bands of fee relating to different levels of guest capacity and different types of licence being incorporated into the proposed short-term let licensing fee structure.

6.6.

For home sharing and home letting, the proposed fees applicable to secondary letting were reduced by 20% to reflect the Scottish Government's recommendation that there are lower fees for home sharing and home letting licences than for secondary letting licences.

7. Duration of Licences

7.1.

Paragraph 8(2) of Schedule 1 to the Act provides that a licence for short-term let shall have effect:

- (a) for a period of three years from the date when it comes into force; or
- (b) for such shorter period as the licensing authority may decide at the time when they grant or renew the licence, or
- (c) for such longer period as the licensing authority may decide at the time when they renew a short-term let licence.

7.2.

Paragraph 8(2A) of Schedule 1 to the Act provides that "A licensing authority may decide to renew a short-term let licence for such longer period under sub-paragraph (2)(c):

- (a) in respect of different licences, or different types of licence,
- (b) otherwise for different purposes, circumstances or cases."

7.3.

For consultation purposes, it was suggested that short-term letting licences should have a duration of three years, including at renewal, and that no distinction should be made between the types of operation, being home sharing, home letting, home sharing and home letting or secondary letting.

7.4.

For information, paragraph 7 of Schedule 1 to the Act provides that a temporary licence for any activity, including short-term lets, cannot have a duration longer than six weeks.

8. Consultation

8.1.

On 22 June 2022, when considering proposed fees, effective from 1 October 2022, for the short-term let licensing scheme in Orkney, the Licensing Committee resolved, in terms of delegated powers:

- That the proposal that licences for short-term lets have a duration of three years at first application and on renewal be approved for public consultation for the period from 27 June to 7 August 2022.
- That the fees for the short-term let licensing scheme to be introduced on 1 October 2022, attached as Appendix 1 to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, be approved for public consultation for the period from 27 June to 7 August 2022.
- That the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure should submit a joint report, to the meeting of the Committee to be held on 1 September 2022, on the outcome of the public consultation, referred to above, together with the proposed fees for the short-term let licensing scheme, and duration of licences, to be effective from 1 October 2022.

8.2.

A consultation on the proposed fees and licence duration was undertaken during the period 27 June to 7 August 2022 inclusive, with the outcome detailed at sections 9.1 to 9.8 below.

8.3.

When consulting upon its proposed fees, the Council must consult with such persons as the Licensing Authority considers appropriate. The following parties were consulted:

- Community councils.
- Officials of the Council in respect of planning, building standards and environmental health.
- Police Scotland.
- Providers of short-term lets who contacted the Licensing Service for advice or information about the licensing scheme.
- Providers of short-term lets via Destination Orkney at <https://www.orkney.com/life/industry/tourism>.

- The general public via public notices on www.orkney.gov.uk, social media and in the local newspaper.
- Scottish Fire and Rescue Service.

9. Responses to Consultation – Fees

9.1.

Sixty responses were received, all of which are provided in Appendices 3, 3A and 3B to this report. Details of individuals and properties are omitted, other than their broad location. All responses received a reply from the Licensing service with further information, including to address their queries in so far as possible, with some queries continuing to be assessed.

9.2.

In terms of the operating context for Orkney accommodation providers, the most common points made by those responding to the consultation can be summarised as follows:

- The tourist season in Orkney is short, with the vast majority of guests coming during the months of May to September. This places Orkney accommodation providers at a disadvantage when compared with those on the Scottish mainland, where the season is much longer.
- As well as having a shorter season, the costs of running a business are higher in Orkney due to having additional transportation costs.
- The ability to source tradespeople to carry out the necessary PAT testing, gas checks etc required by the mandatory conditions is a significant concern for many accommodation providers. There are a limited number of tradespeople in Orkney and they are already busy, leading to delays in getting work done. As a result, meeting the mandatory conditions by the cut-off date for applying for a licence may be impossible for reasons outwith the control of the accommodation provider.
- There is no Road Equivalent Tariff in Orkney, and tourists already pay a lot to get here. Accommodation costs have to be competitive with other places. It is not always possible to increase accommodation costs and still expect to receive the same footfall.
- The tourism industry in Orkney needs to be nurtured, and sustainable tourism encouraged. Visitors who stay in accommodation contribute to the wider economy by spending in shops, cafes and restaurants. There would also be a significant impact on the supply chain if the introduction of this scheme was to result in a reduction in the amount of tourist accommodation available.
- All of the above concerns are even more pronounced among businesses in Orkney's outer isles, which suffer from an even shorter tourist season due to ferry timetabling and capacity constraints, as well as higher costs for goods and services, and extreme difficulties in sourcing tradespeople.
- Tourist accommodation is vitally important in more fragile areas as traditional industries scale back and is a source of additional income for many. It also plays a crucial role in supporting local festivals and events.

- The timing of the introduction of the legislation could not have come at a worse time. The impact of COVID-19 on tourism businesses over the last two years, together with rapidly rising energy and living costs, is putting enormous pressure on profit margins. A number of businesses are threatening to close, with one respondent also highlighting that there are a high number of hotels, guest houses and B&Bs on the market at the moment across Orkney.
- The short timescale for implementing the legislation, the imminent need to comply, and the upfront payment, means that it is difficult for businesses to spread the cost of obtaining a licence across their income period(s).
- Some respondents also referred to the housing situation in Orkney, noting that B&Bs do not impact on the housing shortage. Some stated that they would cease to provide self-catering accommodation rather than obtain a licence, but that the property would not be made available for long-term let or sale as a consequence.
- Some respondents felt that the licence offered no benefits whatsoever to offset the costs, given that they were already members of industry accreditation bodies and/or complied with all relevant legislation relating to health and safety, food hygiene etc.
- Some respondents highlighted the important role which short-term lets play in providing accommodation for visiting workers, which could be jeopardised if too many premises close.
- There were also comments to the effect that, in principle, a scheme which regulates short-term lets is a positive thing.

9.2.1.

A further representation was submitted after the consultation period had closed. This identified difficulties for those coming to work in Orkney – particularly for key posts in health or local government – in that it was reported that there was a lack of available accommodation and that the quality of accommodation that was offered was of unsatisfactory quality.

9.3.

In terms of comments on the fee proposals themselves, these can be summarised as follows:

- The proposed fees are too high, particularly when compared with Glasgow City Council's proposals.
- A major concern is the cost of having to comply with the mandatory conditions, on top of having to pay a fee.
- Licensing fees should take into account the fact that Orkney accommodation providers have a shorter season than the Scottish mainland, and higher costs.
- The cost of living crisis is exacerbating matters, with expenses increasing across the board, visitors having less to spend, and providers therefore having less scope to increase nightly rates.
- An option to pay in instalments, instead of one lump sum, would be welcome.

- It does not make sense for applications to vary in price depending on the number of occupants, as the cost of processing an application will be the same. One applicant noted that a caravan would have the same licence fee as a 5-star house with the same guest capacity.
- Likewise, it was noted that there was no objective reason for the discrepancy between fees charged for secondary letting and home shares, given that the Council will be checking against the same mandatory conditions.
- Some comments were more specific, for example, noting that the step from £638 for a secondary letting property with seven to nine occupants to £799 for 10+ occupants was onerous and could lead to landlords reducing the number of occupants.
- The structure is too complex and should be simplified.
- Some respondents picked out particular costs which were considered to be disproportionately high, such as £300 for a certified copy licence, and £75 for a change of name.
- The majority of respondents who commented on the situation in the outer isles, including mainland-based respondents, felt that there should be a fee discount for the outer isles.
- Some respondents suggested allowing existing accommodation businesses to apply by the deadline of 1 April 2023, but with paperwork to be provided after that date. Otherwise, many will be unable to comply simply through lack of qualified contractors in Orkney.
- Four respondents commented that the fees were fair or reasonable, but most were still concerned with the overall impact of the legislation.
- The refund policy needs to be reconsidered, as the applicant loses the whole fee if the application is unsuccessful. This should be more proportionate. One suggestion was to have a non-repayable fee of a certain amount, with the balance payable if the application is successful.
- It was felt that the comparison with HMO fees was unjustified, as this is completely different from tourist accommodation.
- Some respondents advocated joint working across local authorities rather than each authority developing its own methods of rolling out the scheme and processing applications, or utilising technology/models developed by third parties to aid efficiency.
- There was some scepticism that the scheme would be onerous for the Council to administer, with suggestions that the Council look closely at its cost base, and that the work could be accommodated by existing staff.
- There was a desire for the application process to be as simple as possible, with a check list of what the Council would expect from accommodation providers.

9.4.

A number of comments were received to the effect that Orkney's proposed fees are the highest of all local authorities in Scotland. Whilst this contention appears to have gained traction among the general public, it is not borne out by the responses

provided (or in many cases, not provided) by other local authorities as set out in section 5 above.

9.5.

Many of the responses criticised the legislation and its introduction by the Scottish Government, citing that it was designed to address problems encountered in areas such as Edinburgh city centre, and is demonstrably unfair for areas such as Orkney. Consequently, many requested that the Council take steps to support the tourism industry and lessen the impact of the legislation as much as possible. This could range from direct financial support, to initiating local skills training (in response to the shortage of tradespeople), to considering alternative ways of complying such as whether DIY PAT-testing would be acceptable.

9.6.

There is general confusion about the applicability of the legislation to certain types of property, and in particular, the distinction between guest houses and hotels. This is largely due to the legislation excluding “a hotel which has planning permission granted for use as a hotel” from the short-term licensing scheme. The issues are described more fully in pages 2 and 3 of the response from Development Management, attached as Appendix 3B to this report.

9.7.

Development Management suggest that guidance is required in advance of scheme implementation, locally if not provided nationally, to address the issue set out above and similar issues. Officers will continue to pursue guidance from the Scottish Government on these issues, whilst preparing local guidance should national guidance not be forthcoming. This would be in the form of Development Management Guidance which would be subject to a future report to the Development and Infrastructure Committee.

9.8.

A number of respondents felt that the licensing scheme should be tailored to fit local circumstances, and that the industry should have been involved in helping to come up with a scheme.

10. Responses to Consultation – Licence Duration

10.1.

Whilst most of the consultation responses focused on the legislation generally and the proposed fees in particular, there were a small number of comments on the proposed licence duration.

10.2.

Some general concern was expressed that licences would only be issued for three years, leaving licence holders unsure as to whether they would still be allowed to

trade when the licence period ended. One respondent requested that the licence be valid for five years.

10.3.

One respondent stated that the three year duration would unfairly affect STL providers who had no plans, or were unable, to run the business for a full three year term. Suggested solutions were for a yearly rate to be considered in extraordinary situations to be outlined, and for an issued licence to be updated as a material change where a new owner takes over the premises.

10.4.

While it is possible to grant a licence for less than three years, it is not possible to grant it for more than three years except in the case of renewals. The relevant legislation is set out in section 7 above.

10.5.

As there were no substantial objections, it is proposed that licences for short-term lets have a duration of three years at first application and on renewal.

11. Options

11.1.

When re-considering the fee proposals, the following key objectives have been incorporated into all of the options presented, based on feedback received during the consultation:

- Reduce the fees.
- Allow a further reduction in fees for properties not located on the Orkney mainland or linked south isles.
- Move away from a comparison with HMO fees.
- Reconsider the refund policy.
- Reconsider the general fees.

11.2.

The possibility of taking into account the quality assurance grading or type of property within each letting group (secondary letting, home sharing or home letting) has been discounted on the basis that would add further complexity when there is an overall desire to see the structure simplified.

11.3.

Three options are put forward for consideration as detailed below. The key assumptions for each option remain the same, based on an estimated 600 licence applications and with the estimated processing costs set out in Appendix 4. However, given the concern among respondents that the figure of 600 is inaccurate, sensitivity analysis has also been carried out on each model.

11.3.1.

Option 1: Retain the same basic fee structure as the proposals that were consulted upon, attached as Appendix 1, but with a reduction in fees across the board of 20% (rounded down to the nearest £10):

Secondary Letting	£
1-2 occupants	310.00
3-6 occupants	380.00
7-9 occupants	510.00
10+ occupants	630.00
Home Sharing and Home Letting	
1-2 occupants	240.00
3-6 occupants	300.00
7-9 occupants	400.00
10+ occupants	510.00

A 25% discount would be applied to the above fees for properties in the non-linked isles.

11.3.2.

Option 2: Simplify the structure by removing the highest fee, amalgamating the lowest two bands, and reducing fees across the board by 20% (rounded down to the nearest £10):

Secondary Letting	£
4 occupants or fewer	310.00
5-9 occupants	380.00
10 or more occupants	510.00
Home Sharing and Home Letting	
4 occupants or fewer	240.00
5-9 occupants	300.00
10 or more occupants	400.00

A 25% discount would be applied to the above fees for properties in the non-linked isles.

11.3.3.

Option 3: As per Option 2, but with no differentiation between secondary letting, and home sharing / home letting:

Secondary Letting, Home Sharing and Home Letting	£
4 occupants or less	310.00
5-9 occupants	380.00
10+ occupants	510.00

A 25% discount would be applied to the above fees for properties in the non-linked isles.

11.4.

The projected financial position resulting from each Option is set out in Appendix 4 to this report.

11.5.

It is proposed that, for each of the three options above, the same charging structure would apply for material change in premises and general fees, as follows:

Material change in premises – Secondary Letting	(Charges as per application fees)
Material change in premises – Home Sharing and Home Letting	(Charges as per application fees)
General Fees	£
Temporary licence for short-term let (which cannot exceed 6 weeks)	240.00
Formal legally certified duplicate or true copy licences or a true copy of an entry in the register of licences	120.00
Simple replacement or copy licences or information about an entry in the register of licences	30.00
Material Change of Circumstances	75.00
Material Change of Circumstances - Name Change only	30.00

A 25% discount would be applied to the material change in premises and the temporary licence fees for properties in the non-linked isles.

11.5.1.

In response to comments made during the consultation, the proposed fee for a formal legally certified duplicate or true copy licence or a true copy of an entry in the

register of licences has been reduced from £240 to £120. The reduced fee is still higher than a simple replacement copy, to reflect the added value attached to a formally legally certified document.

11.5.2.

The proposed fee for a name change only is a lower fee, introduced in response to a request made by an elected member.

11.6.

As indicated above, it is proposed that, for each of the options presented, properties in the non-linked isles would be subject to a 25% discount on the fees for Secondary Letting, Home Sharing, Home Letting, Temporary licences and Material Change in Premises. The last four categories of general fee listed in the table in 11.5 would remain the same, with no discount offered.

11.7.

Option 1 addresses concerns with the level of licensing fee by reducing the fee across the board, but it does not address criticisms about complexity of fee levels and number of property bands. Option 3 addresses both, but arguably results in a structure which is too simple and fails to address the Scottish Government guidance set out in sections 4.8 and 4.9.

11.8.

The preferred option is Option 2, as this achieves a balance between taking into account some of the most common points made during the public consultation in simplifying the structure and lowering the fees, whilst taking account of Scottish Government guidance. Option 2 is also considered to represent a manageable level of financial risk to the Council.

11.9.

Accordingly, it is proposed that the fees for the short-term let licensing scheme, to be introduced on 1 October 2022, attached as Appendix 5 to this report, be approved.

11.10.

It is further proposed that the fees and associated costs be monitored closely during the first year of operation, with a view to including the short-term let licensing fees in the annual review of licensing fees from March 2024 onwards.

12. Refund Policy

12.1.

In general, fees are not refundable. This is the case whether or not a licensing application is granted, because the licensing authority will incur significant costs in processing the application. The Scottish Government expects licensing authorities to publish their policy on refunds so that hosts and operators are clear on the position

before they make an application. A statement to this effect was included in the draft schedule of fees which went out for consultation.

12.2.

The Scottish Government guidance states that licensing authorities must ensure, prior to an application being granted, that the applicant is only charged the costs relating to the processing of their application. If the application is refused, the fee charged for the processing of the application itself need not be refunded.

12.3.

In light of concern expressed during the consultation that applicants may find themselves in the position of having paid out several hundred pounds for a licence application only to have it refused, it is proposed that the non-refundable element of a licence fee is capped at the same as the lowest level of fee for applications which require to go through the full application process, namely £240.

13. Interface with Planning

13.1.

There may be cases where applicants apply for a short-term let licence without having the requisite planning permission in place for the property. In order to identify these properties, Development Management suggest in their response to the consultation at Appendix 3B that they be provided with the opportunity to give an early screening position on new applications.

13.2.

Where it is identified that there is no relevant planning permission in place, Articles 7(3) to (7) of the Order allow the licensing authority to suspend consideration of the application to allow the applicant to submit an application for planning permission or apply for a certificate of lawfulness of use or development. This essentially introduces a three month hiatus into the application processing period to give the applicant time to address the issue.

13.3.

It is recommended that Development Management's proposals be taken on board at an operational level, with applications for short-term let licences passed to Development Management for screening following receipt to confirm whether planning permission is required and, if so, whether planning permission has been granted.

14. Island Communities Impact

An Island Communities Impact Assessment has been undertaken and is attached as Appendix 6 to this report.

15. Corporate Governance

This report relates to the Council complying with its statutory duties as a Licensing Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

16. Financial Implications

16.1.

The short-term lets licensing scheme is a completely new scheme and there is very little information on which to base financial forecasts. As such, there is inevitably a degree of conjecture involved in every aspect, from the number of applications likely to be received, to the amount of time which will require to be spent by officers on processing each application.

16.2.

For 2022/23, Licensing has a budget of £18,400. It is anticipated that fees receivable by the authority will be sufficient to meet the expenses of the authority in exercising their functions, and as such be self-financing over the proposed three year licensing period.

17. Legal Aspects

17.1.

The legal aspects are contained within the body of this report.

17.2.

Under Section 50A(4) of the Local Government (Scotland) Act 1973, the public should be excluded from the meeting in respect of any discussion relating to Appendix 4 to this report. Appendix 4 contains exempt information as defined in paragraph 1 of Part 1 of Schedule 7A of the Act.

18. Contact Officers

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18. Appendices

Appendix 1: Fee Proposals submitted for public consultation.

Appendix 2: Proposed Short-term Let Licensing Application Fees: Comparison with other Scottish Local Authorities.

Appendix 3: Consultation Responses.

Appendix 3A: Consultation Response: Destination Orkney.

Appendix 3B: Consultation Response: Planning Service.

Appendix 4: Financial Projections.

Appendix 5: Proposed Short-term Let Licensing Fees.

Appendix 6: Island Communities Impact Assessment.

Appendix 1.

Short-term Lets – Licences and Other Matters.

Licensing Fees.	Proposed £.
	2022/23.
Secondary Letting.	
Short-term let for 3 years (capacity 1 – 2 occupants)	388.00
Short-term let for 3 years (capacity 3 – 6 occupants)	476.00
Short-term let for 3 years (capacity 7 – 9 occupants)	638.00.
Short-term let for 3 years (capacity for 10 or more occupants)	799.00.
Home Sharing and Home Letting.	
Short-term let for 3 years (capacity 1 – 2 occupants)	310.00
Short-term let for 3 years (capacity 3 – 6 occupants)	380.00
Short-term let for 3 years (capacity 7 – 9 occupants)	510.00
Short-term let for 3 years (capacity for 10 or more occupants)	639.00
Material change in premises – Secondary Letting:	
Capacity 1 – 2 occupants	388.00
Capacity 3 – 6 occupants	476.00
Capacity 7 – 9 occupants	638.00.
Capacity for 10 or more occupants	799.00.
Material change in premises – Home Sharing and Home Letting:	
Capacity 1 – 2 occupants	310.00
Capacity 3 – 6 occupants	380.00
Capacity 7 – 9 occupants	510.00
Capacity for 10 or more occupants	639.00
General.	
Temporary licence for short-term let (which cannot exceed 6 weeks).	300.00.
Material change of circumstances.	75.00.
Formal legally certified duplicate or true copy licences or a true copy of an entry in the register of licences.	300.00.
Simple replacement or copy licences or information about an entry in the register of licences.	31.80.

An inspection of premises following:	
<ul style="list-style-type: none"> a failure to comply with a licence condition, or 	(to be confirmed)
<ul style="list-style-type: none"> a complaint relating to the premises (unless the complaint is frivolous or vexatious). 	(to be confirmed)

Information: Licence fees are non-refundable.

Version No:	Date:	Details:
1.	22/06/2022.	Draft schedule of STL licensing fees for consultation.

Appendix 2 - Local Authority Comparison

	SECONDARY LETTING					HOME SHARING AND HOME LETTING				
	1-2 people	3-4 people	5-6 people	7-10 people	11+ people	1-2 people	3-4 people	5-6 people	7-10 people	11+ people
Aberdeen City*	650	650	700	700	N/A	650	650	700	700	N/A
Perth & Kinross	350	530	530	900	1600	175	265	265	450	800
Orkney	388	476	476	638	799	310	380	380	510	639
Western Isles	300	350	375	400	400	200	250	275	300	300
Glasgow City	250	250	400	400	400	125	125	275	275	275
North Ayrshire	250	250	400	400	400	125	125	275	275	275
Aberdeenshire	NOT PUBLISHED					NOT PUBLISHED				
Edinburgh City	NOT PUBLISHED					NOT PUBLISHED				
Highland	NOT PUBLISHED					NOT PUBLISHED				
Moray	NOT PUBLISHED					NOT PUBLISHED				
Shetland	NOT PUBLISHED					NOT PUBLISHED				

*Note: Aberdeen City's figures are based on number of bedrooms, so these figures are an approximation

Short-term Lets Licensing Scheme – Consultation Responses

Orkney Islands Council

Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022

<p>The Council ran two Consultations between 27 June and 7 August 2022 regarding the implementation of a new licensing scheme for Short-term Lets in relation to:</p> <ul style="list-style-type: none">• Proposed Temporary Exemptions Policy, being not to grant any temporary exemptions.• Proposed Fees for applications for STL licences and standard licence duration of three years.	
<p>Submissions were received from 60 responders, three of which commented on the proposed Temporary Exemptions Policy and are also contained within a separate report. All responses are provided below with the details of individuals and properties omitted, other than their broad location. “Mainland Orkney” excludes Kirkwall and Stromness, which are shown appropriately. Where more than one response was received from the same host / operator, these have been grouped together. All responses received a reply from the Licensing service with further information, including to address their queries.</p>	
<p>The Council’s Community Councils Service advised:</p> <p>“Just to let you know that I am afraid it will not be possible to consult community councils at this time as they are in abeyance due to elections. We will only declare the results w/b 8 August so there is not enough time for the new members to consider the consultation.”</p>	
1.	<p>Received 27 June 2022. Premises in Mainland Orkney:</p> <p>“Hello</p> <p>Aside from this being a new ‘law’ and fees being charged What else is required by me to be approved by OIC to provide guest accommodation ? Unless this is clarified and becomes a mandatory process, I will cease to provide guest accommodation</p> <p>I am not applying for or prepared to pay fees for a registration process that is not explicit about what criteria is being used to deem my home suitable for providing seasonal guest accommodation Until this is explicit , I will then and only then , decide if I wish to apply I may add that I continue to pay full council tax and I am already charged every year by OIC for EHO testing of my borehole water supply , which I would not be if I was not providing accommodation.</p> <p>The rationale for the legislation is to ensure that all premises used for short-term lets are safe, and that the people operating them are suitable.”</p>
1.1.	<p>Received 5 July 2022 from the same host / operator:</p> <p>“Thank you.</p>

	<p>I've already had correspondence via FB with the criteria for application which I am currently 90% compliant.</p> <p>I just need to get my appliances PAT tested and am awaiting the person doing it to fir me. His diary</p> <p>My potable water supply is overdue because the EHO technician has Covid!</p> <p>So I will be submitting my application.”</p>
2.	<p>Received 27 June 2022. Premises in Mainland Orkney:</p> <p>“Good Morning.</p> <p>I understand that an email was sent out early this morning regarding the proposed fees for Short Term Lets Licensing.</p> <p>I did not receive this email. As an owner of a self-catering cottage in Orkney, please make sure that I am on your mailing list and please send me any relevant paperwork.</p> <p>Thank you.”</p>
3.	<p>Received 27 June 2022. Premises in one of the North Isles:</p> <p>“Hi</p> <p>We have a hostel and cottage we are on a outer isle there seems to be no discount for short seasons we only get guests May to August so I feel it would be fairer to have a nights open adjustment as we on the outer isle will be paying the same as someone on Mainland, Orkney who gets higher footfall and a longer season.”</p>
4.	<p>Received 27 June 2022. Premises in one of the North Isles:</p> <p>“Dear Gavin Mitchell</p> <p>I have just read the Council’s proposed short-term lets fees and licence duration, I realise this licencing is statute so we must abide by it but I must register the sadness felt by us and visitors at what this means on a practical level.</p> <p>It will not be worth us continuing to let the [premises]. If you could spare a moment to flick through the website, you should get an idea how useful it has been to both [the island] and Orkney in attracting creative visitors. It has hosted cooks/artist/writer/retreat/extended family groups, amongst others, you can imagine...</p> <p>We will apply for licencing [other premises] but sadly not [first named premises] after April 2023. It is just too expensive and too much hassle. It will be missed.</p> <p>In sadness.”</p>
4.1.	<p>Received 2 August 2022 from the same host / operator:</p> <p>“Short term letting legislation OIC consultation.</p> <p>We live and work in [island]. We operate two self catering units in the island. Although we are open for business all the year round, the actual letting season is basically May to September. Lets outside this period are very welcome but are few. The tourist season is noticeably longer on Orkney Mainland. This is partly due to the reduced ferry service to the outer isles in the winter period.</p>

	<p>Potential visitors have the extra ferry costs and our accommodation rates are lower to reflect this.</p> <p>Apart from what we manage to grow ourselves everything is imported. So all food, fuel, building materials, vehicle spares and household items are inevitably almost always dearer than in Kirkwall.</p> <p>Anything not available locally and shipped out from Kirkwall has an additional haulage cost per item.</p> <p>Any work requiring contractors from Mainland Orkney carries considerable extra costs for outer isles residents and businesses as contractors typically charge from 7am to 7.30pm.</p> <p>So there is a triple whammy for tourist businesses in the outer isles - less visitors, higher costs, lower rates for visitors.</p> <p>We can do nothing to change any of these.</p> <p>We will try to get these two units registered in April 2023 but that will depend on getting the gas and electrical tests and any work done.</p> <p>As we understand it, there is only one gas engineer qualified in Orkney. He/she will be hard pushed to get around all the tourist businesses that have gas - besides his/her normal ongoing work commitments. If, for some reason, we find we have to use a mainland electrical contractor then that will be seriously problematic and expensive. They already have a reputation for delays of months or sometimes years getting around to outer isles jobs and they will be faced with all the mainland tourist businesses first.</p> <p>We also have a catering business that offers self-catering accommodation. Under the new legislation, it will not be economic to continue with the accommodation side of this, so that aspect will have to stop as of 31st March 2023. This property has brought many visitors over the years and a significant number have subsequently moved here and bought or built houses and some have developed their own businesses.</p> <p>We suggest two changes to your proposals.</p> <ol style="list-style-type: none"> 1. Allow existing accommodation business to apply by 1st April 2023 but with the gas and electrical paperwork in hand but not completed. Otherwise some or even many will be unable to comply simply through lack of qualified contractors in Orkney. 2. Allow a 50% reduction for outer isles businesses to reflect: <ol style="list-style-type: none"> a) Shorter season than mainland Orkney partly because of the winter ferry timetable. b) Higher costs on everything in the outer isles but especially the use of mainland contractors and their travel time. c) Tourist guests expecting and getting lower rates in the outer isles because of their higher travel costs.”
5.	<p>Received 4 July 2022. Premises in one of the North Isles:</p> <p>“I am writing to seek guidance on the Licensing Department role in obtaining approval of registration as a Landlord in the event I rent a property I own in [one of the North Isles].</p> <p>I have worked with the OIC Housing Department and think I have obtained the necessary Inspections – Electrical Inspection, Detectors of CO , Building Inspection, Appliances and so on. But they also mentioned your</p>

	<p>organization, particularly for possible short rentals of less or equal to 28 days. I am not sure if I understood correctly but would be grateful if you could clarify if I have to get further inspections through you. I believe it may be connected with new legislation from the Scottish Government in October.”</p>
6.	<p>Received 29 June and 4 July 2022. Premises in one of the North Isles:</p> <p>“Hello, What is the proposed charge for a B and B with 3 double rooms please? I don't understand your definitions. Thanks”</p> <p>“Hello Can you also tell me how places paying this fee can be identified? IE how will the public know? Also how will you track places that are not trading with a license? I am still looking forward to answer for my previous question. Many thanks.”</p>
7.	<p>Received 28 June 2022. Premises in Mainland Orkney:</p> <p>“Dear Team, We have some feedback as it pertains to our properties here at [location] we have two cottages, one sleeps 2/3 the other 4/6. They are quite different in size and perceived value is wholly different, however based on your system we will be paying the same licence fee for both our properties.</p> <p>1) We feel that the first band should be 1-3 persons and then 4-6 persons etc, generally the third person is a baby/child in our experience over the past years and therefore the next band is quite a jump. Does a baby / toddler count as one of the occupants?</p> <p>2) capacity VS. star rating/ floor area the perceived value of a 2 person property is wholly different based on the property star rating/floor area and therefore some smaller properties can not charge the rent of a larger 2 person property, will there be any reference to size/luxury of properties? if not the slightly expanded first band to 1-3 persons would help those with much smaller properties.</p> <p>3) payment terms? presumably there will be a way to pay this monthly? like the council tax? this would be quite a large sum of money to find in a lump sum, especially as many properties will not rent out for more than 6 months in a year. Although the amount proposed is fair, it is still quite a chunk out of profit when prices really can not be increased much further due to other price increases, electricity etc.”</p>
7.1.	<p>Received 2 August 2022 from the same host / operator:</p> <p>“Dear OIC in regards to the period of consultation we would like to make the following points; we feel the smallest property should be 1-3 persons, not 1-2.</p>

	<p>The difference in rental fees chargeable between our two properties, one sleeping 3 and one sleeping 4-6 is quite different in terms of perceived value, however under your charging structure we would be paying the same licence fee!</p> <p>Also the fees seem very high in relation to other councils in Scotland, will this be looked into?</p> <p>I feel there should be an option to set up a direct debit to pay the fee in monthly installments, just as the council tax is operated. Ideally from April - September, 6 months of each year as the letting period for holiday homes is really between April [and] September. We have very little income outwith those periods. Similarly to pay the whole fee as a lump sum would be very difficult especially if charged at the beginning of the financial year as we would have had very few bookings prior to April and would therefore not have the funds to pay it. The amount of fees to pay upfront would be equivalent to more than an entire week's rental for each property, never mind the financial outlay to evidence everything to get the application ready to submit. We make very little profit once utilities, business loan, cleaning and laundry fees are paid. I do not want to have to get rid of our cleaner or laundry lady as that will mean locals will lose that income [and] work, but may have to do that work ourselves in future to make the letting of the cottages viable.</p> <p>We do feel that this short term licence fees will make it very difficult for self catering owners in Orkney and the fees should be as low as is humanly possible and certainly payable in installments. We already pay over £1000 per year for trade rubbish/recycling collection. Utilities are rising exponentially as are all other costs and this is just another nail in the coffin. Holiday makers in Orkney have already paid a lot with ferry fees and travel expenses to drive right through Scotland and this licence fee will increase holiday rentals on the islands, this will mean it is cheaper to holiday in Europe than in Scotland which is very sad. Many holiday makers are already put off by the level of cruise liner traffic, we see customers who come to Orkney every year but are now saying they will not come back due to these issues.</p> <p>We hope you are able to mitigate the Scottish Government's insane legislation and keep it as fair as possible to local businesses."</p>
8.	<p>Received 29 June 2022. Premises in Kirkwall. This response is also included in a separate report on the proposed Temporary Exemptions Policy:</p> <p>"Response:</p> <p>Not all short term lets are done so as part of a business. The cost of travel to and from Orkney is very expensive, especially if you are travelling onward from Scotland. I often have to travel to Ireland to visit my family. I occasionally let out my house while I am gone for the week. This allows me to recoup the cost of the flights home, which makes visiting family possible, which in turn, makes living in Orkney possible. I only rent out like this once a year or so. The fee proposed makes it impossible for me to do this. Therefore, I suggest an exemption for anyone who lets out their own private home (where they normally reside - home letting), for a period of less than 28 days per year in any given year. If you let out more than this</p>

	<p>you should require a license, and I think for anyone operating AirBnB as a business, the fee structure per 3 year seems entirely reasonable.</p> <p>If this is not acceptable, then perhaps a short term license could be made available. If the current fee is £380 for 3 years, the daily rate would make a 28 day licence less than £10. At this low rate it seems a little ridiculous, and so you can see why an exemption is the right solution in the first place, for let that will only really be used once, maybe twice, in a year.</p> <p>It really does not impact the market at all, but provides tourists with a comfortable, animal friendly, home-from-home to really help them get the most out of Orkney.</p> <p>Please consider this exemption, as I feel it is very reasonable.”</p>
9.	<p>Received 1 July 2022. Premises in Kirkwall:</p> <p>“I refer to the new Short-term Lets Licensing system currently being established and seek clarification regarding the implications for my establishment.</p> <p>[Name of premises] may differ from most establishments as most of our rooms have en-suite toilets but a few rooms also have basic kitchenette facilities.</p> <p>This guest house is used to provide bed and breakfast, mainly for tourists, during the summer period of each year (mid April to end September), but has in the past been used to provide self-catering accommodation over the winter months, mainly for people working in Orkney carrying out short term contracts. As an example, the Homecare section of the council used our rooms for some years to accommodate agency workers. However, that particular use has now ceased because [personal information about an occupant of the property who is now] a client of Homecare. Accordingly, use of our rooms is deemed to create a “conflict of interests”. Other users include the NHS, Scottish Water and a number of private contractors. The kitchenettes have basic facilities such as kettles, microwaves, toasters, fridges, electric rings, some pots and pans etc. These units are definitely not suitable for long term lets. They have not been let for self-catering since covid but were used to provide a warm, dry place to stay at little cost (around £125 to £150 per week) while work people were staying short term in Orkney.</p> <p>It would be helpful if you could let me know the implications of this new legislation for our establishment.</p> <p>I would like to take part in the consultation process but that is difficult without knowing the details of how the new legislation would apply in our particular case.”</p>
10.	<p>Received 27 June 2022. Premises in Stromness:</p> <p>“Response to consultation on Holiday Letting Licenses.</p> <p>I have two self-catering properties, one sleeping 1-2 people and one sleeping 1-4 people.</p> <p>The proposed fees seem to me to be proportionate and reasonable.</p> <p>I question the payment of the full fee up-front, and its non-refundability in the event that the application fails. I note that your Landlord Registration Scheme, of which I'm a member, is completely free. I accept that there will be costs to the Council in processing applications. I would suggest a non-</p>

	<p>repayable fee of (say) £100 per property, with the balance payable if the application is successful.”</p>
11.	<p>Received 6 July 2022. Premises in Mainland Orkney:</p> <p>“The Scottish Government has introduced legislation to regulate the short-term lets sector. This licensing scheme applies to self-catering and bed and breakfast operators as well as the potential to introduce planning control areas.</p> <p>I have owned and operated a successful bed and breakfast for 25 years and self-catering chalets for 15 years in Orkney. My business; as well as others similar; are vital to this island economy bringing guests to spend their money in local cafes, restaurants, shops and tourist attractions. I advertise on my website, social media, local media and VisitOrkney and VisitScotland. I also use AirBnB, Booking.com and TripAdvisor among others to get bookings. They all have minimum standard requirements to sign up to hosting through their sites. I understand that the backbone of this legislation is to address the problem of amateur AirBnB’s, particularly in Edinburgh, who are taking available property away from the residential and rental markets. I feel this is a very over-reactive approach in that it is reported that only 1% of the housing market in Scotland is AirBnB associated and it is disproportionate to apply this to all B and B’s and self-catering across the country as a result. I have had many years of being in business and I have gone through annual tourism inspections through VisitScotland, Green Tourism, and other tourism bodies. I have had numerous other inspections through regulatory bodies and adhere to fire regulations, health and safety, food hygiene, electrical inspections and tax compliance. The legislation is already there and being applied. To produce even more legislation on top of legislation is duplicitous and totally unnecessary - a waste of funds and even more of a waste of my hard-earned money. OIC has proposed a license fee plus a monitoring fee which potentially will cost me thousands of pounds. I can’t afford it.</p> <p>The timing of this could not be worse as many of us accommodation providers are dealing with the upheaval in our businesses due to the Coronavirus Pandemic and rapidly rising energy costs. Massive cancellations due to this pandemic have resulted in businesses like myself barely able to survive and sadly has resulted in many businesses going under. B and B’s income down 60% across the UK - 7 x harder hit than other businesses.</p> <p>The licensing scheme is too costly. We are micro-businesses and these are onerous costs that could absolutely and unequivocally devastate the industry.</p> <p>I understand this legislation has been passed by Parliament and is now law so to keep fighting it, as I have for the last year, is pointless. So, I have reviewed the proposed. OIC licensing fees. Although it will be difficult, I can manage to grudgingly license my self-catering properties. However, as far as the long running Bed and Breakfast, I cannot justify the heavy expense and will be closing. How will that benefit anyone? As I live on the premises, it does not add another house to the marketing mix. I am afraid that I will be one of many who closes up shop leaving Orkney with a massive gap in tourism accommodation.”</p>

11.1.	<p>Received 2 August 2022 from the same host / operator:</p> <p>“I attended the short-term Lets Licensing Information Day on Monday August 1 sponsored by Destination Orkney. There was a zoom meeting held by the The Association of Scotand’s Self Caterers as part of their ASSC Regulations Roadshow featuring Fiona Campbell who has been working tirelessly on this issue for the last 7 years. To say it was an eye-opener would be an understatement.</p> <p>Out of the 38 councils who have been tasked to set up the fees for the mandatory licensing by Scottish Law, our very own Orkney Islands Council has the dubious honour of proposed fees being the highest of the 38 councils. Considering that an Island Community Impact Assessment was done before this legislation came into effect I am bewildered why they would take this heavy handed approach. Especially since the Council has said publicly that they are taking “a light-handed approach.”</p> <p>Orkney tourism accommodation is already disadvantaged financially in so many ways. We have just been through a pandemic and suffered huge losses for the last two years.</p> <p>We have been fighting to get RET so we can compete effectively with tourism areas in the mainland of Scotland. It is far cheaper for people to travel to mainland destinations than up to Orkney. Once they get here they expect our accommodations to be less expensive. Our fuel prices are the highest in Scotland. Our electricity prices are being raised again. Everything we need to supply our businesses ie. Food, cleaning supplies, etc. is more expensive as it has to be shipped to the Island. The proposed fee structure and all the costs involved in getting the various certificates is onerous.</p> <p>Not only is the proposed fee structure the highest but it is also disproportionate. A short-term let for 3 years (capacity 1-2 occupants) is set at £388. A short term let for 3 years (capacity 10 or more occupants) is set at £799.00. As the administration for implementing this licensing scheme is self-funding one wonders how much more work is involved in looking at the paperwork for an accommodation that has 2 versus 10 occupants as it is still one application with the one set of documentation. It just doesn’t make sense.</p> <p>We need OIC to take a good look at this fee structure and revise it to be more supportive of our valuable tourism accommodation sector before it is too late.”</p>
12.	<p>Received 6 July 2022. Premises in Mainland Orkney:</p> <p>“From the very first day we put the B and B sign out which was the year 2000 the first guest we had book in was a radiologist working at the hospital, and ever since then we have had workers from all trades, staying here at [premises], some a few days and others for months.</p> <p>Since the school and then the hospital was started to be built we have had a dozens of workers here.</p> <p>We have the boss of HPI one of the companies who built the hospital coming today to have a meeting with the NHS.</p> <p>We have also had lots of visitors in the S/C and also the B and B who are making return visits.</p>

	<p>We pay our subscription to the tourism group and carry out all fire and safety checks and premises passed for hygiene rules.</p> <p>Most of the tourists comment on the cleanliness of the place.</p> <p>So what is the point of this licensing scheme, it is bureaucracy gone mad.</p> <p>If you want to kill off businesses like ours who are giving a good service to the county then go ahead.”</p>
13.	<p>Received 27 June 2022. Premises in Mainland Orkney:</p> <p>“Hi</p> <p>I have just had a look at your fees and wonder if you can please tell me what we get for the fees we need to pay? I have just checked the Government web site and it does not seem to say how often the electrical and gas certificates need to be renewed? We need to know these things before we can make a decision on pricing for next year. The bookings are coming in already.</p> <p>I am very disappointed that there are no reduced fees for a caravan. So our caravan will be liable for the same fees as a 5 star house. I only charge £210 - £270 per week!</p> <p>I look forward to hearing from you.”</p>
14.	<p>Received 8 July 2022. Premises in Mainland Orkney:</p> <p>“Good morning,</p> <p>We currently run a Airbnb which shares our accommodation. I understand that we need to apply for a licence and I would be grateful for advice about how we do this: to whom do we apply, what form(s) may be required and any fee to be paid. etc.</p> <p>Many thanks”</p> <p>“Thank you, Elaine, for your speedy and very informative reply.</p> <p>We’ll apply when the forms are ready.</p> <p>We’ve only tried Airbnb in the last few weeks so we are learners. We hope to carry on next summer though.</p> <p>Thank you again”</p>
15.	<p>Received 8 July 2022. Premises in Kirkwall:</p> <p>Telephone enquiry from operator of bed and breakfast / guest house premises enquiring whether a licence would be required because the operator does not reside at the premises.</p> <p>In response to information provided by email, operator asked "Could you please let me know if all Hotels will also have to have the STL license. They are offering exactly the same service as we are."</p> <p>In response to information provided, operator responded "Okay thank you for clarification on this subject. We did speak to our lawyer in Edinburgh who tried to explain it as well."</p>
16.	<p>Received 18 July 2022. Premises in one of the North Isles:</p> <p>“I have a question about licensing.</p> <p>I understand that we will have to apply for a license and pay a fee and that we will be inspected in some way to prove that we comply with various</p>

	<p>safety measures, which I'm very happy about as I am already more than compliant.</p> <p>I am unclear as to whether the authority will be putting "control areas" in place whereby they have the right to tell individuals that there is over provision in their area (including how over-provision will be defined for fairness) and that they may no longer run a self-catering business or start a new one.</p> <p>I am unclear as to the requirement for "change of use" I have been working on the assumption that existing businesses that can prove they were trading before October 2022 will not require to apply for planning consent for change of use of premises but that new ones will. Is this true? What, then, will be the planning requirements in full. I ask because I am about to complete the purchase of a property to provide [5-star] accommodation on an outer island and will not be doing so if I have to go through planning.</p> <p>I am very concerned that almost all self-catering provision on the outer isles will simply roll over in the face of the redtape involved. What is in place to ensure that the range of quality and price point accommodation on the outer isles is sustained through providing support and presumption in favour of granting consent to operate self-catering?"</p>
16.1.	<p>19 July 2022: In response to information provided, operator responded: "Thanks that's very helpful.</p> <p>So I've become confused with the issues of licensing and the change of use planning which are two separate things and planning consent isn't part of the requirement to become licensed? I'm currently paying business rates but I've never applied for a "change of use" for the property to become self-catering I'd no idea this was a thing. Is this something I should be doing anyway despite paying business rates and being registered as a self-catering business have I missed something that I might need for my license? Sorry to be thick but its very confusing."</p>
16.2.	<p>19 July 2022: Operator submitted further response: "Actually I think I've worked it out. 2.3 and 2.4 of the [Scottish Government] guidance for operators seems to suggest in its own way that we will only need change of use planning IF we are in a control area and you think OIC doesn't plan to impose control areas so we're all good.</p> <p>I'll press ahead with my purchase and get it let as quickly as possible to avoid delays post October.</p> <p>Thank you very much for taking the time to write and extended reply, I can now respond to others who have asked me similar questions and pass them on these links."</p>
17.	<p>Received 15 July 2022. Premises in Mainland Orkney: "RE: SHORT-TERM LETTING (STL) - LICENCE ORDER: THE ORKNEY ISLANDS</p> <p>We refer to the information circulated by your colleague, Mr Gavin Mitchell, via the good offices of Destination Orkney, an organisation of which we are members. Please accept this letter as our formal response to the Orkney Island Council (OIC) request for submissions regarding a scheme for STL Licensing as required by the Licence Order (Legislation).</p>

As the resident owners of an established small self-catering facility [premises], we anticipate that the OIC Members and Officers will consider this note in full; presented not as criticism but as a positive submission drawing on experience, proposing reasoned and cost-effective alternatives to the current (June 2022) scheme proposed by OIC Officials.

Executive Summary:

It is accepted that the legislation covers the whole of Scotland, including island and rural communities, and, importantly, *offers flexibility to local authorities in how it is implemented based on local needs and concerns.*

We ask that the Council considers the following:

- OIC is not required under law to follow Scot Gov generic guidance, but is required to address local needs and concerns, that could be achieved by a public workshop / meeting in August 2022.
- The Licensing Order requires OIC to specify the requirement for "a" Licensing Scheme; a scheme *based on local needs and concerns.*
- The statistical number of potential Licensees used for the OIC's current (June) proposals is not substantiated and potentially flawed.
- The Licensing Order requires minimum cost / charge. The cost basis for the OIC's current proposals has not been substantiated and, analysis indicates OIC cost base-v-proposed charges is insecure.
- The OIC's proposed Scheme Schedule of Charges schedules the number and type of property. Yet the Licensing Order does not impose this as a mandatory mechanism.
- The OIC could use its discretion; recognise **local needs and concerns** and adopt best practice from experience drawn from elsewhere, achieve affordability, secure the scheme for taxation upon revenue streams for all, including OIC, and accomplish compliance with the Licensing Order within the time limitations.

The above bullet points summarise the following exploration of noted issues, offer some preliminary analysis, constructive proposals, and observations. Our hope is that you will direct the necessary engagement in the spirit of Orkney and sustainability for those subject to the Short-Term Letting Licensing Order:

1.0 Observation: Under the Licensing Order, local authorities in Scotland will have to establish a licensing scheme by 1 October 2022 ...

Note "a licensing scheme".

1.1 There is no legislative requirement for OIC to follow the generic guidance provided by Scot Gov, much of which has its origins in large cities/ year-round destinations. Orkney has neither a large city nor demonstrably a year-round destination - six-months max. Ergo, OIC is at liberty to design a licensing scheme provided it meets the stipulated conditions and delivers the mandatory requirements.

2.0 Note: The OIC is required under the Licensing Order to advance a scheme to serve the actual Orkney community situation with the impacted community and is to be ... *implemented based on local needs and concerns.*

2.1 Proposal: OIC with Destination Orkney (DO) need to hold this August 2022 a Public Meeting at which alternate proposals that are available from the impacted community (i.e. any existing and prospective Licensee) can

be presented in a workshop environment and considered openly by the community.

Max 10 minutes per presentation.

At the end of the OIC/DO workshop, in line with democratic principles and, compliant with the spirit of the Licensing Order, a Validation Vote on the workshopped schemes could be taken. The scheme achieving the majority vote being forward as "the" Scheme for Orkney; one that is based on **local needs and concerns**. That might include the OIC's current proposal, but it might not.

2.2 Observation: What is required under the Licensing Order is a Scheme that is implemented based on local needs and concerns. The OIC has not yet achieved compliance with the terms of the Licencing Order, as OIC has not engaged with the impacted community to enable a Scheme design for Orkney that would have a foundation based on "local needs and concerns". It is entirely possible in the time remaining to complete due process and work up a Scheme with the Community and present that to OIC Councillors for formal resolution.

3.0 Note: The OIC papers project 600 candidates for Licensing, however Officials have not provided quality assurance or independent audit to justify that number (600).

3.1 Observation: The basis upon which the OIC has derived the cost of the OIC' s proposed Scheme is questionable. The actual number could be double or half that quoted in the report to Council.

4.0 Note: Public Accounting Standards and Best Practice require that the basis of any financial calculation, for taxation, must come from either an accurate audit or be derived in real-time accounting.

For the avoidance of doubt, any fees or charges levied under law and collected by Government is taxation.

4.1 Observation: The Licensing Order requires that any scheme must be provided at minimum cost. The OIC proposed scheme is not proven to be at minimum cost. Indeed, the justification for charges is absent.

For comparison perhaps consider the following simple analysis:

From experience gained elsewhere in processing complex on-line applications (e.g., Aviation Security), if OIC did have 600 License Applications to process; allowing for 1 (one) O/C Administrator processing 3 {three} online applications in an hour that= 200 hrs work in a year / 35hr working week= 5.8 weeks.

The average non-executive OIC salary ranges from approximately £17,040 per year for a Housekeeper to £50,805 per year for a Curriculum Leader. Published average OIC hourly pay ranges from approximately £8.83 per hour to £19.94 per hour. These rates include office overheads.

If the one Administrator that is required was to be paid the highest rate £19.94 per hour x 200 hours= £3,988 (say £4,000). Add an exceptional overhead of 150% the "cost" would be circa £10,000.

*Therefore, IF there are 600 Licences to the issued £10,000 / 600 = **£16.66 per Licence.***

Not over £300+!

5.0 Note: The OIC current proposed Scheme Schedule of Charges seeks to impose charges related to the number and type of property. Yet the Licensing Order does not impose this as a mandatory mechanism.

5.1 Observation: Given that processing an on-line application, where numbers are filled in by the applicant, the actual administrative task is the same, irrespective to the physical characteristics? For example, whether there is one bedroom or ten bedrooms it makes no difference to the OIC administrative task. Therefore, the cost recovery charge per application should arguably and reasonably be the same, irrespective of the physical characteristics of the property.

6.0 Note: The Licensing Order confers flexibility and enables OIC to use discretion; that the licensing Order also recognises each place has **local needs and concerns** and, encourages the adoption of best practice that can be drawn from elsewhere. i.e. out with Orkney.

6.1 Observation: There is nothing stopping Orkney from adopting a long-established Licensing Scheme from Europe; one that accounts at the point of sale.

For example: OIC STL Issue administration charge for a three-year term (£16.66?).

Once Licenced the STL Operator (as a reasonable condition) would be required to apply a per person (visitor) per night nominal STL Charge (e.g., £0.15 (for 1- and 2-star campsites) to £1.5 (for 4-5-star luxury). The Orkney STL Tax could be levied on each guest occupying a Licensed facility.

This would reflect the actual occupancy situation, work in with cash/lows, is transparent as regards taxation and is fairer to all concerned.

If adopted this could/ should be Cash Accounted i.e., a tax applied to actual monies received, (in the same way that many small businesses handle VAT) and could then be remitted quarterly by the Licensee direct to OIC via the online Accounting/ Council Tax System.

It is noted that all those deemed under the Licensing Order to be STL are defined as Businesses and therefore required to register for Business Rates (even if too small and thus zero rated); most/ all small businesses would also account for the STL Tax in their Annual HMRC Income Tax Returns.

In the event, OIC's ability to sample audit/ inspect for accuracy would be achieved by existing access to Annual Accounts and Occupancy numbers. This data is already required by the Orkney and Shetland Valuation Joint Board in the Annual Returns for Business Rates.

Local needs and concerns would be better addressed via an actual occupancy charge, levied per person per night.

7.0 Summary:

The Scheme proposed by OIC is noted. However, there are alternatives that appear to be simple, fair, and appropriate to the Orkney situation. A scheme that would be accounted monthly per invoices, collected, and remitted every three months; one that could be based on actual performance and actual cash payments received, rather than guessing.

So, OIC could account for this matter in exactly in the same way as VAT and, adopt a Scheme that reflects local needs and draws its practicality from schemes applied in Europe.

	Thank you in anticipation of your consideration of these observations and constructive proposals.”
18.	<p>Received 24 July 2022. Premises in Mainland Orkney: "THE DEMISE OF TOURISM IN ORKNEY – AND ALSO THE WHOLE ISLANDS ECONOMY.</p> <p>I was approached by Nick Long, OIC, earlier this year, as he was tasked with handling the STL license, to ask if I would be prepared to be involved in a meeting as he could see I had been very involved with discussions between MSP's / councillors / accommodation providers / SGHBBA / ASSC / OIC. He then contacted me and said licensing department had taken over the brief, they haven't contacted me. The Scot Gov guidance to Councils recognizes the need to tailor their (OIC's) STL Licensing Scheme to fit the local situation and purpose. Designing behind closed doors in School Place makes this clear to be straightforward Taxation on Tourism – it is not being developed in a “partnership” with our micro businesses and is unlikely to reflect Orkney's unique accommodation providers or their economic situation.</p> <p>As a reasonably well known B and B owner (and the admin of B and B Owners Group / Orkney Information and Orkney Late Availability) I have been contacted by many of the B and B / Self Catering property owners who have lots of concerns. Some of the questions / comments I have received are:</p> <p>Where is Destination Orkney when it comes to supporting their members? Are they challenging OIC or dare they not on account of funding from OIC? I think we already have the answer on that one....</p> <p>OIC Planners verbally advise that STL legislation will require all properties that have been trading for less than 10 years to apply for Planning Permission, unless already Approved in use. Written confirmation of this is required.</p> <p>OIC Building Control verbally advise that such 'new approved use' properties would need to be improved to comply with their new (now non-domestic) use and be subject to a building warrant (one of the B and B group recently applied for planning permission to enable them to offer more rooms and the cost of the 'improvements' were in the region of £12k)</p> <p>How will anybody get the work done and approved before next year?</p> <p>Being on an island means we have limited capacity for architects / builders / electricians, etc, with long waits involved.</p> <p>How will OIC ENSURE that they capture ALL STL properties? We all know that the original spotlight fell on AirBnB properties in Edinburgh's tenements, due to no owner overseeing that ONLY the guests booking the property actually stayed there, it led to drug fuelled parties, noise nuisance, litter, etc. This CANNOT happen in a B and B or Guesthouse as the owners are on site and, in most cases, it is also their home. We also do not impact on housing shortage as the buildings we use are often purpose built and/or far bigger than a 'normal' house.</p> <p>Will OIC determine that use class 7 - ie guesthouse/B and B paying business rates for guest areas and lower CT for personal area only - be subject to this license or not? We have heard that at least one council appears to be saying that properties falling under this class use will NOT</p>

BE LIABLE for license. As yet we have failed to get a straight answer from ScotGov and most councils.

I have actually been advised that, as I have been trading for more than 10 years, I can claim 'grandfather rights' and should be under Use Class 7, if I am not already. This does not involve valuation board or whether you pay Business Rates or Council Tax and would be a straightforward change of use with no other requirements, ie planning permission / alterations, etc. Also, there is the question of how any council can levy Council Tax AND ask that you have a Business License. Surely, under these circumstances, any relevant property (I do have 7 bedspaces for example) should be automatically transferred onto Business Rates and only pay a lower CT for areas not used for the business?

I had hoped to raise these concerns with OIC ahead of the publication of their Scheme for Taxing Orkney's Guests and longer-stay visitors. Having an informed discussion might have paved the way to an affordable STL Scheme, one that was tailored to fit Orkney's unique accommodation providers and their economic situation. Sadly, that opportunity has been lost.

Even ScotGov are unclear/unsure of what properties are covered – ie is Class 7 (paying NDR) included or not? Class 9 (paying high Council Tax and, therefore, treated as a domestic dwelling) properties are now going to be asked to apply for a 'business' license, but without any of the 'perks' of NDR – ie 100% rural rates relief. How can this make sense? I was told by OIC in 2011 that I should pay CT as only had 3 guest rooms, at no point was I referred to the Valuation Office or told that I had a choice.

The costs that will be incurred even before we pay for a license will be untenable for many owners. Note that we have a short season and will be paying the same pre-costs (or more due to lack of competition) as equivalent property in Edinburgh, for example, where they will have year round trade. Add to this two very poor / non-existent seasons due to COVID-19 and NONE of us have money to spare for this, we are struggling to get back on our feet. Those on the outer islands will be even further impacted. What happened to the Island Communities Impact Assessment and why has no one within the council raised this with ScotGov?

According to STL License Scheme information - Part 1 Guidance for Hosts and Operators: <https://www.gov.scot/isbn/9781804351307> - my reading of the legislation and guidance (and I'm not a lawyer) suggests that all accommodation providers will be required to pay for example:

*PAT testing – quotes vary. £3.50 - £4.00 per item / £26.40 per hour for apprentice / £39.60 per hour qualified electrician.

*Electrical Safety Inspection - £39.60 per hour – approximate time required is 4-5 hours for 3 / 4 bed property and 6-7 hours for bigger property.

*Gas Safety Check - £47.50.

*There could be further costs if work needs doing to bring up to standard Planning fees approx.. £450.

Building Control Fees approx. £150 - £700.

Cost for 'improvements' 'alterations' required – who knows?

And then the license cost –only an indication so far.

	<p>Bottom line. Unless handled carefully, for sure this will impact not just on the small accommodation providers, but on all those small businesses that supply not just those accommodation providers but longer stay visitors; the “one-man band” tradesmen and women that maintain and repair stuff, the shops that sell linen, groceries, milk and bread; the many that work from their cottage kitchens supplying everything from home bakes and chocolate to crackers and our many talented crafts people.</p> <p>As small businesses are headed to be taxed out of existence, it begs the question:</p> <p>Is Orkney happy to just have the limited number of guests that our hotels can handle (with the massive increase in room rates that is being reported to me?), and the thousands of the cruise liner passengers and other day trippers?</p> <p>A few might benefit, but the knock-on effect of this increase in local taxation on our small micro businesses; ones that rely on longer stay visitors spend and the support/spend from our accommodation providers will be catastrophic, that is unless sensitivity is maintained and handled by OIC with the utmost of care.</p> <p>We firstly need a SIMPLE and clear check sheet from OIC as to WHAT they EXPECT accommodation providers to conform to, clarification of some of the above points and an open event for all businesses who will be impacted to meet with the licensing board and other relevant OIC departments so that questions can be asked and answered, assurances made, and a clearer idea of how this can be taken forward without completely decimating Orkney's Tourism Industry.”</p>
19.	<p>Received 20 July 2022. Premises in Mainland Orkney:</p> <p>“I have read the documentation on the STL License Scheme Consultation and do have some queries I would like to raise.</p> <ol style="list-style-type: none"> 1. There are various dates indicated and in my particular case as I already operate self catering accommodation, there is a date of 1.4.23 that you will need to apply for a license. However, there is no indication of how long the process is going to take to actually get a license. I did read a date of July 2024 that you could continue taking bookings until your license is approved. Is this correct? 2. I want to check that so long as the properties are located close together that you only need one license. In my case I have a detached property and two semi-detached properties providing accommodation for up to 10 people. 3. On the application it is suggesting that you need to alert neighbours that you are making an application for this license. My nearest neighbours are a mile away. What constitutes a neighbour? 4. It says that while you are waiting to hear about your application for a license you will need to put in your Terms and Conditions that bookings are conditional on compliance. How should you be telling customers? Can this be on your website or do you need to tell people individually? 5. I have been operating self catering since purchasing the properties in 2005. They are all stone cottages built over 100 years ago. These were assessed by OIC for self catering many years ago. Do you need EPC certificates on every property you are letting for a license?

	<p>6. It says that once you have been given a license for the number of people, then it is an offence if you go over this number. I am thinking that from time to time there are babies coming to the property. They don't need a bed as usually they have a cot. How do you deal with this?</p> <p>7. If you wanted to add an additional self catering property that was not operational before 1.10.22 can you explain what the process should be. Do you need to get the property assessed before you apply for a licence?"</p>
19.1.	<p>Received 3 August 2022 from the same host / operator: "Many thanks for replying so promptly. Just a couple of further questions regarding various certificates such as electrical certificates that are required. If you gained these when a completion certificate was given for the properties is this sufficient or will new certificates be required. Will you also be requiring water testing here in Orkney?"</p>
20.	<p>Received 21 July 2022. Premises in Mainland Orkney: Telephone enquiry from operator of multiple accommodation properties and units enquiring how many licences would be required.</p>
20.1.	<p>Received 6 August 2022 from the same host / operator: "I represent [premises in Mainland Orkney]. I strongly object to the fee levels which have been suggested. I believe they are higher than many larger authorities on the mainland have set, who's short let owners have much longer letting seasons and opportunity to earn income. As a long established 32 year old self catering business we have always operated to a high standard and followed all the rules and regulations associated with this business. We have been members of Visit Scotland and Visit Orkney since day one and have been part of the Quality Assurance schemes since we started operating all of which have a fee. We are also members of ASSC. I feel these proposed short term lets licence fees will be a cost for no gain whatsoever. We have 12 self catering apartments all in the same site which is one business premises. I would like to know if we will be charged one licence fee for 10 or more occupants as would a field of Yurts as mentioned in the FAQ's. During Covid we only received one grant for the entire business not one per apartment. We are in the middle of planning refurbishment of our bathrooms, upgrading our heating and have to replace 16 large picture windows as the double glazing is steaming up. The recent upgrade of the fire detection equipment has cost us almost £4000.00. These are all costs we have to bear to keep the standards up of our accommodation to compete with the growing number of accommodations available and to ensure guests have a quality experience when they visit. The licence fees that are proposed are a massive extra burden financially and bureaucratically. We have a short season to work from in Orkney from May to the middle of September being the peak months where most of our income has to be made, running costs are going through the roof for everyone. We cannot just inflate our prices as customers are also struggling financially in this economic crisis. Travel to Orkney is expensive we cannot make accommodation extortionately priced as this will discourage visitors. OIC must know the importance of Tourism to the Islands therefore they should be doing their utmost to assist accommodation providers, not burden them with unnecessary costs and</p>

	<p>paperwork. Will OIC issue a clear list of documents required for the application? I recall when the scheme was first brought to our attention that it would not be onerous to the accommodation providers.</p> <p>I have spent my entire working life welcoming and looking after visitors to Orkney as have many other accommodation providers in Orkney and I am sure we would all like to continue. It would be very unfortunate if properties had to close their doors because of this scheme. The OIC holds the cruise liner trade in very high regard. I do not believe those day trippers enrich Orkney as much as our long staying, locally spending, Orkney loving returning guests.</p> <p>I would also like to ask why these fees are to be so much higher than the Landlord Registration fees? Which seems a similar type of scheme.</p> <p>I look forward to hearing from you and hope there is opportunity for further dialogue regarding this matter.”</p>
20.2.	<p>Received 6 August 2022 from the same host / operator:</p> <p>“I represent [different premises in Mainland Orkney]. I strongly object to the fee levels which have been suggested. I believe they are higher than many larger authorities on the mainland have set, who's short let owners have much longer letting seasons and opportunity to earn income. As a long established 45 year old self catering business we have always operated to a high standard and followed all the rules and regulations associated with this business. We have been members of Visit Scotland and Visit Orkney since day one and have been part of the Quality Assurance schemes since we started operating all of which have a fee. I feel these proposed short term lets licence fees will be a cost for no gain whatsoever. We have 4 self catering cottages all in the same site which is one business premises. During Covid we only received one grant for the entire business not one per cottage. I hope this is how we will be treated with regard to the licence fee which will be one fee for the whole site. This is how we were assessed during Covid grants.</p> <p>We are constantly refurbishing and upgrading our holiday lets. We did a complete refurbishment 15 years ago. The latest upgrade of the fire detection equipment cost £1500.00. We will be upgrading our electric heating this winter at considerable cost. I have discovered grants for these works are not available. These are all costs we have to bear to keep the standards up of our accommodation to compete with the growing number of accommodations available and to ensure guests have a quality experience when they visit. The licence fees that are proposed are a massive extra burden financially and bureaucratically. We have a short season to work from in Orkney from May to the middle of September being the peak months where most of our income has to be made, running costs are going through the roof for everyone. We cannot just inflate our prices as customers are also struggling financially in this economic crisis. Travel to Orkney is expensive; we cannot make accommodation extortionately priced as this will discourage visitors. OIC must know the importance of Tourism to the Islands therefore they should be doing their utmost to assist accommodation providers, not burden them with unnecessary costs and paperwork. Will OIC issue a clear list of documents required for the application? I believe the scheme is not be made onerous to the accommodation providers?</p>

	<p>I have spent my entire working life welcoming and looking after visitors to Orkney as have many other accommodation providers in Orkney and I am sure we would all like to continue. It would be very unfortunate if properties had to close their doors because of this scheme. The OIC holds the cruise liner trade in very high regard. I do not believe those day trippers enrich Orkney as much as our long staying, locally spending, Orkney loving returning guests.</p> <p>I look forward to hearing from you and hope there will be further opportunity for dialogue regarding this.”</p>
20.3.	<p>Received 6 August 2022 from the same host / operator:</p> <p>“Will there be a licence number issued on granting of the Licence and will this have to be shown on all advertising?</p> <p>Will it be mandatory law for online booking platforms like Air BandB, Booking.com etc to only allow accommodation with a licence to work with them?</p> <p>How will this be policed?”</p>
21.	<p>Received 25 July 2022. Premises in Mainland Orkney:</p> <p>Telephone enquiry from operator of accommodation expressing concerns about increased costs of compliance associated with mandatory licence requirements, such as PAT testing.</p>
21.1.	<p>Received 26 July 2022 from the same host / operator:</p> <p>“Islanders discriminated against once again...</p> <p>The Scottish government have yet again made every effort to hinder the growth and sustainability of running a tourism business on Orkney.</p> <p>Firstly, we are one of the few island communities unable to access R.E.T and cheaper ferry fares, making it difficult to compete with the western isles in particular. Self catering tariffs are forced to be significantly lower than those on the mainland (a cottage such as mine would cost an additional £300) as travel to the island continues to be prohibitively expensive, and with increasing costs of fuel this is only going to escalate. Why come here when it’s cheaper to travel to Skye or Inverness?</p> <p>Secondly, recent grant allocations for ev chargers are issued on a first come first served basis and with only one grant registered electrician islanders have missed the boat so to speak as areas where quotations are quick and easy to access have used up all the money. Here accommodation providers are desperate to help the environment by installing chargers but as ever we are disadvantaged because of our location.</p> <p>To top it all, island businesses such as mine are now taking another hit as Scottish government legislation requires accommodation providers to apply for a license to offer short term lets.</p> <p>I read with great interest the article by Bed and Breakfast provider Kathy Bichan in the Orcadian recently and I thoroughly endorse all the points made. However, as an owner of an award winning holiday cottage for the last ten years I must add that businesses such as mine are also going to be detrimentally affected by this legislation and for many it will be the final nail in the coffin.</p>

	<p>Over the past three years my bookings have been adversely affected by covid, the lack of RET unprecedented rises in running costs particularly electricity.(holiday makers find Orkney cold so the heating is on for nearly all of the year) This year I have raised my prices to help with the additional costs of energy and the on costs of the forthcoming licence fee and compared to the last two years my bookings are down by 50% making my business unprofitable.</p> <p>In principle a scheme which regulates short term accommodation is a good thing but the impact in terms of jumping through hoops to fulfil the mandatory requirements of Scottish government is not workable for a small business such as mine. How is our island fire service going to cope with hundreds of requests for a fire risk assessment? The additional costs of over £1000 which this licence will incur are one expense too many. My cottage is available to rent all year but the facts of the matter are that folk only start arriving in April (if I'm lucky) and depart in mid September. Unlike accommodation on the mainland where the season extends to 10 months of the year, I am only have a five month window to spread my costs. The licence does not take this into account so once again we islanders get the short straw.</p> <p>Enough is enough, accommodation providers require direct action, not a listening ear, yet another consultation or the response of our hands are tied it's a mandatory requirement. It is time for Orkney Islands Council to say no, we are here to protect the rights of islanders which central government legislation is attempting to destroy!"</p>
22.	<p>Received 23 July 2022. Premises in Kirkwall: "How will the licensing fees affect my business? 8 bedroom B and B."</p>
23.	<p>Received 2 August 2022. Association of Scotland's Self-Caterers:</p> <p>Background</p> <p>Founded in 1978, the ASSC are the leading source of knowledge on short-term letting and holiday homes in Scotland and are the only trade body representing the interests of the traditional self-catering sector. We represent over 1400 Members, operating tens of thousands of self-catering properties throughout Scotland, from city centre apartments to rural cottages, to lodges and chalets, to castles. The ASSC commits its members to maintaining the principles of "quality, integrity, cleanliness, comfort, courtesy and efficiency" and to offering visitors to Scotland consistently high standards within their self-catering properties.</p> <p>Introduction</p> <p>The ASSC welcome the opportunity to respond to Orkney Islands Council's consultation on short-term let licensing regulations. This submission includes our views on the Council's proposals regarding both temporary exemptions and on licensing fees, as detailed below.</p> <p>We want to ensure a balanced and proportionate approach for business, tourism and local communities and get a regulatory framework in place that works for all. We will work constructively with all stakeholders, including Orkney Council, to achieve this crucial objective.</p> <p>1. Short-term Lets – Temporary Exemptions – Draft Statement of Policy – Consultation</p>

- i. The ASSC notes that Orkney Council, further to their Draft Statement of Policy, do not intend to provide temporary exemptions as it would “provide little advantage to a licence holder and indeed would be likely to be unreasonably burdensome.”
- ii. It is the view of the ASSC that wherever temporary exemptions are granted, all properties should be subject to the same mandatory and additional conditions to ensure consistency and a level playing field between operators.
- iii. We therefore agree with the Council’s statement that “given that most of the mandatory licence conditions relate to fundamental safety matters, and the Licensing Authority’s own duty of care, the Council note that it seems inconceivable that temporary exemptions granted should not be made subject to the same essential safety standards as those required for licences.”

2. Short-term Lets – Fees for Short-term Let Licences and Duration

- i. Overall, the fees attached to short-term let licensing are meant to be based on the principle of cost recovery – therefore, the ASSC believes that fees should not be set at a level greater than the amount necessary to recover establishment and running costs.
- ii. We believe more explanation is required as to the discrepancy between fees charged against those engaged in secondary letting and those who are homesharers. For instance, why is it more expensive for secondary letting compared to other types of short-term let when the Council will be checking for the same mandatory conditions?
- iii. In addition, the ASSC would request that the Council sets out the numbers of short-term lets within each category.
- iv. We note that the report to Orkney Council’s Licensing Committee on 22 June 2022 stated “*it is recommended that application fees for licensing...take cognisance of the charging structure of HMOs.*” It should not be forgotten that tourist accommodation through short-term letting and residential properties like HMOs are two entirely separate things. In Orkney, the current fees for HMO applications are: £476 for properties with capacity up to 9 occupants; and £799 for those with capacity up to 10 occupants.
- v. In the table for the proposed licensing fees for 2022-23, for the section for secondary letting – which would include well-established businesses like self-catering, as opposed to amateur homesharers – the Council propose to charge those with 7-9 capacity £638. This would be more than an equivalent HMO property with the same capacity. This is unfair to those operators on Orkney who would fall within this bracket.
- vi. We would refer the Council to Scottish Government guidance which highlights ways to keep costs down, including: (a) economies of scale; (b) integrating service delivery with other housing and licensing functions; (c) using online and digital verification where possible, for example through photo and video evidence instead of a visit; and (d) taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher.
- vii. In terms of your Council’s plans for their short-term let licensing scheme, we wish to highlight our proposal which we believe could assist

	<p>with an efficient and cost-effective way of securing compliance with the Licensing Order. The ASSC has worked in partnership with Quality in Tourism (QiT) to develop a white-label online tech solution to promote a self-declaration compliance model. This includes the uploading of mandatory condition certification, including a date check system, enabling a desk-based assessment and a risk-based inspection approach by the licensing authority. Management reporting enables data collation and success measurement. QiT has been delivering such accreditation / verification solutions over a number of decades, including the Isle of Man Register for short-term lets.</p> <p>viii. Overall, this approach has four main advantages: (1) It minimises the work required by the licensing authority to set the system up and renew licences; (2) It allows the licensing authority to focus its inspection resources on a risk-based basis; (3) It requires responsible behaviour and compliance by the operators; and (4) It minimises the additional costs to operators (which will have to be absorbed as an additional business cost and/or passed on to the very visitors we want to visit your area to boost our economic recovery).</p> <p>ix. We understand that local authorities across the country like Orkney Islands Council face severe pressure on their resources and we believe this system can go some way to help with the administrative challenges associated with the new licensing regulations. We would be delighted to meet with you to discuss this in further detail to see whether it would be appropriate for your Council.</p> <p>x. Finally, the ASSC would like to emphasise the importance of self-catering to the tourist economy in Orkney. If a fee structure with costly, disproportionately high fees was introduced, this will reduce accommodation capacity on the islands and will damage the industry at a time when we need to work towards a sustainable recovery.”</p>
24.	<p>Received 25 July 2022. Premises in Stromness:</p> <p>“To whom it may concern</p> <p>Regarding the proposed new licensing for guest houses, B and B’s and Self-Catering.</p> <p>I have had an accommodation business for just over a decade in Stromness and I see a decline in the following respects:-</p> <ul style="list-style-type: none"> • Difficulty finding staff – cleaners are very difficult to find. • Paying 15 pounds per hour now for cleaning staff - just to get and retain cleaners. • A reduced demand for accommodation – I have prime summer weeks now available which I have never had before in the past decade. • Additional expenses such as 2-yearly electricity compliance certificates, Legionnaire’s disease are now really expensive now since supplier labour costs have gone up considerably. • All expenses have gone up:- water, effluent treatment, water run-off, electricity. • We have not been able to increase nightly rates to cover for the additional expenses – in order to try to remain affordable. We are

significantly less profitable than we used to be – it is no longer justified for this capital investment with the reduced profit.

The above are most probably some of the main reasons why the following places are for sale:-

Below are just the list of accommodation places that I have seen listed for sale on property websites. I obviously do not know of ones which are selling on websites I don't know of, or selling discretely. This does not include the number of accommodation establishments that have just stopped operating as accommodation providers.

The following accommodation businesses are not for sale because they are doing well and life is wonderful running an accommodation establishment.

1. Avalon Guest House, Kirkwall
2. Highland Park House, Kirkwall
3. Karrassa Guest House, Kirkwall
4. Woodwick House, Evie
5. Smithfield Hotel, Dounby
6. Rosevale Guest House, Kirkwall
7. 10A North End Rd Hostel, Stromness
8. Merkister Hotel, Harray
9. Stromness Hotel (back on the market again on websites after being purchased just last year)
10. Atlantis 5 Self-Catering Chalets, Finstown (was on the market – was not able to sell it).
11. Woodwick Mill and Cottage, Evie
12. Standing Stones Hotel
13. Old Kirk (stopped being self-catering – could not sell it as this so sold as residential units).
14. Cleaton House, Westray
15. The Hall of Heddle, Finstown
16. Ferry Inn, Stromness
17. Royal Hotel, Stromness
18. Royal Hotel, Long Hope
19. Button Ben Guest House

The above is telling you something.

Namely that owning an accommodation business is not what current accommodation owners want to continue to do. They are trying to get out of it. Also look how long some of these accommodation places have been for sale – years.

Orkney needs to see if it is in Orkney's economy's interests to further discourage accommodation providers who are already indicating. The case for the long supplier benefits (up and down) of tourists has already been made.

The initial intent concept of introducing the licensing was to control serious problems in Edinburgh and large cities – problems which are not applicable

	<p>or prevalent to Orkney (loud noise, littering, raves at houses, taking away the culture of an area).</p> <p>Don't fix what is not broken just because something is broken somewhere else.</p> <p>By introducing an expensive additional expense – you are going to further discourage anyone from being in an accommodation business in an already financially compromised industry.</p> <p>Furthermore who possibly would invest a significant amount of capital in a business to buy property and kit it out for the purpose of providing accommodation – if they knew in advance that they might only be allowed to operate it for 3 years (the duration of the license provided). And every 3 years – they had to go through this same worry that their business might be closed down.</p> <p>Who in their right mind would invest in an accommodation business such as B and B, Guest House or Self-Catering – if they only knew they had the security of operating their business for three years?"</p>
25.	<p>Received 21 July 2022. Destination Orkney:</p> <p>“Are you able to provide a breakdown/justification of how the STL licenses have been calculated to arrive at the fee structure proposed please?</p> <p>I recall you mentioning that a proportion of the fees would go on the cost of developing a licensing application online platform. Will there also be additional human resource added to the licensing team? It would be useful to understand the composition of the license fee in terms of these costs in addition to the application process costs.”</p> <p>Response issued 29 July 2022:</p> <p>“The method of calculating the fees is set out in Clauses 7.1 to 7.18 of the report to the Licensing Committee of 22 June 2022. A copy is attached for ease of reference.</p> <p>As you will appreciate, there are a large number of variables involved in putting together an estimate of fee income and costs. The Licensing Authority has a statutory duty to ensure that the total amount of fees receivable is sufficient to meet the Authority’s costs in establishing and administering the licensing scheme. We are particularly appreciative of the feedback that we have received, and continue to receive, through the public consultation process. Please be assured that we fully intend to take the consultation responses into account in the report which will be presented to the September meeting of the Licensing Committee, and that we will aim to reflect those comments by way of revised fee proposals.</p> <p>Ultimately it will be for the Licensing Committee to determine the fee levels. We do however anticipate that the fees will thereafter be re-assessed during year 2 of the scheme, when we will have more information on the number of licence applications received and the costs involved in administering the scheme. It would then be our intention to submit revised fee proposals to the Licensing Committee in year 3, for implementation during year 4 when most existing licences will be due for renewal. Those revised proposals would of course also be subject to public consultation.”</p>
25.1.	Received 7 August 2022. Destination Orkney – attached as Appendix 1A.

26.	<p>Received 2 August 2022. Westray and Papa Westray Tourist Association: "Response to STL Licensing Consultation"</p> <p>Last week accommodation providers in Westray met to discuss the Short Term Lets Licensing scheme which came into force on 1st March 2022 which requires that all existing providers of self-catering and B and B accommodation apply for a license by April 1st 2023 if they wish to continue trading. In common with much of the rest of the Scottish tourism industry, there is widespread despair here at the timing of this measure, with businesses already struggling to get back to some form of normality post-Covid and now facing unprecedented rises in energy, transport and living costs. The impacts of this regulation on the tourism industry in Westray and Papay and the Outer Isles as a whole, will be particularly severe. Our tourist season is short- 3 to 4 months maximum, hemmed in by timetables/ ferry capacity issues, and this means that our income 'window' is necessarily limited. At the same time, our costs are higher- paying more for transport, fuel and carriage charges. The cost of application, though unwelcome, is actually the lesser of our concerns, what worries us most is the impossibility of managing to fulfil all of the requirements which need to be in place before a licence application can even be made.</p> <p>In particular, the survey and certification of gas and electrical supply and appliances (including electrical installation condition report, PAT testing of portable appliances etc) requires to be undertaken prior to application and must be undertaken by specialists. With a county-wide skills shortage, such services are in short supply everywhere and exceptionally hard to access in the Outer Isles. Waiting times are commonly counted in months and regularly even in years. In addition to this the extra costs involved in contracting outside labour is significant, to say nothing of the potential costs involved where more substantial upgrading is deemed necessary.</p> <p>We appreciate that this is government legislation and OIC has limited flexibility in how it is implemented and while we would wish to see all of our accommodation registered and provided to the best modern standards, there is currently a substantial mismatch between what is desirable and what is possible. As things stand, the majority of accommodation providers are unlikely to be able to obtain the requisite paperwork in time to apply for the licence. Several have already either shut up shop or are planning to do so- largely due to the fact that the additional costs associated with this scheme in combination with the short visitor season make it uneconomic to continue.</p> <p>Tourism is vitally important here. As traditional industries scale back, it has helped to open up new opportunities for small and family-run businesses which, in turn, employ local people and services. It has brought life and energy to the island (witness Westray Connections festival) and encouraged folk to stay here and others to come here to live- turning the tide of depopulation and providing sustainable economic growth. Our holiday accommodation is regularly used by 'local' visitors and friends and family- and this plays a key role in keeping events such as the Westray Regatta and Harvest Home thriving- to the benefit of our whole community. The loss of any further accommodation provision would seriously jeopardise the considerable enterprise and hard work which has been</p>
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	<p>invested up to now and would have an overall detrimental effect on the island.</p> <p>We are calling for OIC to meet us halfway to come up with a more workable solution. A reconsideration of the flat rate licence fee would be welcome, on the basis that it is disproportionate to Outer Isles businesses, a 50% reduction would be fairer. What we more urgently require, however, is a substantially longer grace period to prepare for these changes- in acknowledgement of the skill shortages which are out with our control. Assistance with upgrading properties and in initiating local skills training would also be very welcome. There may be little room for manoeuvre within the terms of the STL legislation, but OIC must now acknowledge the very real threat this poses to our island communities and take some responsibility for finding a way forward.”</p>
27.	<p>Received 2 August 2022. Premises in Mainland Orkney:</p> <p>“I am extremely concerned about the above licensing scheme. I understand that the council has no option but to implement the scheme, but from an owner's point of view it is concerning on a number of points: -</p> <p>The level of charges being suggested by OIC appears much higher than other councils, for example almost double that of Glasgow.</p> <p>This feels unfair as if I had a similar property in other parts of Scotland the weekly income from my two bedroom cottage would be double or triple the amount I can charge here.</p> <p>The letting season in Orkney is much shorter, in reality 5 months as oppose to 12 months in most other parts of Scotland.</p> <p>So, my income is much lower and yet the cost for the licence is much higher.</p> <p>It is very likely that obtaining the licence will cost me the equivalent of about two weeks rent in my cottage.</p> <p>I trust you understand my concerns.”</p>
28.	<p>Received 4 August 2022. Premises in one of the South Isles:</p> <p>“To whom it may concern:</p> <p>I believe the Licencing of the Letting sector is a good idea and I support it but it needs to be funded fairly from our Sector. At present it is another substantial and, in some cases, unviable cost. I think the OIC should be doing everything it can to support us not further burden us as the suggested costings do.</p> <p>1. Regarding Licence Fees.</p> <p>A. To the amount charged this fairly would reflect several aspects. That the various scales represent the amount of work the Council needs to undertake, and with that in mind the leap of charges from £638 for 7-9 Occupants to £799 for 10 or more Occupants is onerous. I realize there needs to be Bands and cut off points for them but in my case I will be paying £161 extra for one Occupant. This potentially could result in Landlords reducing the number of Occupants and thereby reducing the number of Lets available in Orkney.</p> <p>B. The Licencing fees in Orkney should, fairly, take into account the extra financial burdens we face opposed to Mainland Scotland including, Higher Costs of getting Pat Testing etc carried out on the Islands also our</p>

	<p>much shorter operating season. I know you have to set Licencing Fees across Orkney and its Islands but it is still possible for OIC to amortize the Fees so The Islands are not further penalized. Plus we have all had the extra Scottish Government Legislation cost of installing Networked Smoke and Heat Alarms. We have also been further financially penalized during Covid whereby Visitors could not get to Orkney and it's Island, whereby on The Scottish Mainland people could still travel.</p> <p>2. Payment of Fees.</p> <p>A. Licencing Fees to be paid up front. I would argue that although a substantial part of the Licencing Processing Costs are front-end-loaded there will still be ongoing Monitoring Costs for the OIC and there should be provision for Landlords to pay pro-rata Annually.</p> <p>B. The impact of the Burden of New Licencing Fees: The totality of financial extra burdens placed on Orkney Lets include:</p> <ul style="list-style-type: none"> *Huge hikes in electricity costs *Increase in Fuel costs *Network smoke Alarms inc. Installation *Associated work to conform to New Letting Licencing Regs. <p>In conclusion whilst I support the Licencing of the Sector it must not be priced, including implementation, to hurt and potentially reduce one of Orkneys Key Sectors.”</p>
29.	<p>Received 4 August 2022. Premises in one of the North Isles and in Kirkwall:</p> <p>“I provide my input to this consultation process below. By way of context I own self catering premises in both [one of the North Isles] and Kirkwall. The comments below are mainly aimed at isles premises, but there are some wider points that are relevant to the whole of Orkney. I look forward to hearing the outcome shortly.</p> <p>Achievement of all of the certification requirements for the Short Term Let Licence in time for licence application for premises in the North Isles will be well nigh impossible, and that costs of obtaining these certifications very onerous. By way of an example, a half hour PAT testing visit by a competent person on the Mainland might take half an hour. On the North Isles this could involve a fourteen hour round trip, plus the cost of the return ferry fare for a man in a van. While it will be possible to defray this to some extent through different premises working together, this will be limited by the fact that on some of the smaller North Isles there are only two or three premises to share these costs. More worryingly, given that there are 600+ properties to cover on the Mainland, why would any supplier undertake this journey until all the more accessible premises on the Mainland were serviced. It is very difficult to see how this could be done from the existing supplier capacity by 1st April. A good example of this problem is the simple task of getting an electricity meter installed or an obsolete one removed in the North Isles, which involves a wait of many months. This is of course now a problem in the Mainland, but it has been a problem in the North Isles for years, at a time when the lead time to installation on the Mainland was much shorter.</p> <p>The following steps are essential to alleviate this problem:</p>

	<ul style="list-style-type: none"> • It is not quite clear from the legislation where we have to produce certification, or merely comply. This needs to be clarified in the guidance notes for the licence application • In some instances testing, eg PAT testing, needs to be carried out by a “competent person”. This needs to be unambiguously defined in the guidance notes, or an approved supplier list provided. Is DIY PAT testing acceptable? • We need a waiver for the isles (and maybe the whole of Orkney) to allow us to submit the licence application on time, but submit the certification supporting this later, when it becomes available. We cannot do the impossible. • We need to understand what OIC is doing to create and sustain a cost effective supplier base to deliver these certifications. We will go through all of this again in three years time. <p>The licence application, with complete guidance notes needs to be available by the end of August, so that we can develop a plan for achieving all the certifications. New entrants who must apply by 1st October will need this by then anyway.”</p>
30.	<p>Received 25 July 2022. Premises in Stromness:</p> <p>“We have a property which comprises [accommodation] in Stromness. So as an “established” business we need only start the application in October .. which would allow us to continue letting uninterrupted and have a full license in place by April.</p> <p>However.. we are considering selling the property, let’s say in October or November, so would any potential buyer be able to continue advertising and actually letting that property over the winter, as we would have done? We have had some interest (as the grapevine has been active), but we would want to confidently advertise the property with the proper details relative to this query and put in place the appropriate preparations and applications necessary.”</p> <p>Response issued 4 August 2022:</p> <p>“We have been able to consider your query.</p> <p>As you know, the new scheme distinguishes between hosts / operators who were letting their accommodation before 1 October 2022 and those who were not.</p> <p>Hosts / operators such as yourself who have been letting your accommodation before 1 October 2022 can apply for a short-term let licence anytime from 1 October 2022 up to 31 March 2023 and can continue to operate while your application is being processed.</p> <p>Hosts / operators who were not letting the accommodation before 1 October 2022 cannot operate, i.e. advertise, take bookings or receive guests, until they hold a licence.</p> <p>So, unfortunately, this means that if the accommodation is sold, the purchaser will be required to apply for a licence in their name and cannot advertise or let the accommodation until they have their licence.</p> <p>Please don’t hesitate to contact me again if you have any further queries.”</p>
31.	<p>Received 5 August 2022. Premises in Kirkwall:</p>

	<p>"Can you give me some more information and criteria of the short term let licence please and what needs to be done and when?" No further submission.</p>
32.	<p>Received 4 August 2022. Premises in Stromness:</p> <p>"I wish to support the licence proposed to short term let's but feel if someone has just gone through planning and has adhered to all the stipulations put in place to reach a quality standard then it would be truly unfair to charge them for a licence and use the visits as the reason for a charge of hundreds of pounds.</p> <p>Building standards would already have been involved and a building warrant. Therefore I would not be happy to pay for the first 3 years as have adhered to the councils rules and been compliant, a small charge if receiving a paper licence to cover the administration costs would be acceptable.</p> <p>I feel the charges would be fair for a 3 year period. But again if converting or building self catering and paying thousands to building standards, why should we pay for the first 3 years when you know the standards you imposed where met."</p>
33.	<p>Received 4 August 2022. Environmental Health Service:</p> <p>"Thank you for the opportunity to comment on the proposed implementation of the new short terms let licensing regime. Please find below comments from the Environmental Health Team at Orkney Islands Council.</p> <p>The team acknowledges the new duties, powers and responsibilities placed upon Orkney Islands Council to implement the new short term lets licensing scheme, we also recognise that as with any new legislation imposing additional requirements, there will naturally be concerns amongst prospective duty holders. We also recognise that this new legislation cuts across the work activities of a number of council teams, so a joined up approach is needed and welcomed. As you know from our discussions, our main concern is regarding the resource implications for implementing this new legislation. It is our intention to recruit a temporary post to assist with the inspections of properties, where deemed necessary. Should we be unable to successfully recruit to this post, then there will be limited resources available within the team to conduct necessary inspections.</p> <p>In the longer term, and as per discussions, the team recognises and supports the need for establishing a new full time post which will incorporate the statutory role of Civic Government Licensing Standards Officer. This post will be able to provide the necessary capacity to support the Council in delivery of a variety of licensing functions including inspection, complaint investigation and enforcement.</p> <p>Thank you for the opportunity to have input into this consultation."</p>
34.	<p>Received 5 August 2022. Premises location unknown:</p> <p>"Due to the new legislation i am will not be doing self catering anymore! So tourists will be more accommodation short.</p> <p>This has done no service to the industry in what was already difficult times after the pandemic and certainly in Highlands and Islands it is a ruinous state of affairs!"</p> <p>In response to information provided, operator responded:</p>

	<p>“Thank you for your reply. I already know the details if this legislation and i do not understand why the Council is wasting my Council Tax on meetings when everything has been already been passed at Holyrood.</p> <p>Pity the Council didn’t decide to get involved when it was in the earlier stages before hand. It has been going on for several years now.</p> <p>This is going to be very costly to individuals and i for one am opting out!”</p>
35.	<p>Received 5 August 2022. Premises in Mainland Orkney:</p> <p>“I am emailing you about the short lets license, we have 2 small properties in [location], which we have guest come to year after year, we these new prices, checks etc we feel we can no longer afford to keep our accomodation going, we do not make much out of them as it is, Orkney is such a expensvie place to visit and we feel we cannot up our prices enough to cover this, we are very upset and saddened that we are now thinking of closing up, and these will NOT BE RENTED OUT FOR LONG LETS, BUT WILL REMAIN EMPTY.”</p>
36.	<p>Received 5 August 2022. Premises location unknown:</p> <p>“I would like to comment on the proposed fees as I have a spare room in my house which I allow visitors to use, along with my sitting room and kitchen. I felt that this allows more visitors to come to Stromness which benefits the shops and restaurants and people enjoy the view over the golf course and to the sea beyond. I also pay a local to help with cleaning and laundry so more money definitely comes into the local economy.</p> <p>To pay the fees required for the short season and the intermittent use of the room makes it uneconomic, especially when you add in the cost of having testing, etc carried out. It just means I will stop and keep the room empty when I am not there, or just for use of family and friends.</p> <p>I also feel that this situation will be even more severe in the isles where the season is very short and the cost of getting there high. Perhaps there could be a level of income or number of days below which a very small fee is charged if registration is necessary under Scottish Govn regulations. It is such a different situation with our high costs for travel and fuel and short season, compared to the central belt where there are visitors all year. These costs are very high and there is the cost of any compliance measures on top. It will reduce incomes for many islanders to have to stop but it will prevent people from offering this service. And in my case not release any accommodation for long term rentals or sale.</p> <p>I hope the OIC will take into account the serious affect this will have on an industry which will be suffering in the next few years with higher energy prices, tourists use a lot of energy and making a profit out of the business will be very difficult without additional registration fees.</p> <p>Yours, a very concerned member of the letting community.”</p>
37.	<p>Received 5 August 2022. Premises in Mainland Orkney:</p> <p>“I am sending this in response to your request for comments on the SNP's recently introduced legislation which will have considerable adverse effects on the private tourism sector in general but especially on the numerous small b and b providers in Orkney and the OIC response which seems to be to roll over and accept the unfair, unnecessary and the many ultimately expensive requirements.</p>

There seems to be some confusion and in the case of the SNP government complete ignorance about the definition of a small, traditional b and b so let us start by describing what a small b and b is, we are not speaking about purpose built properties but simply people's homes. A large number of b and bs, offering in general one or two rooms, are family homes; once children grow up and move on the homeowners may decide to make a little 'pin' money by offering to share their home with visitors. It is not their primary source of income, they continue to live in the house and do not expect to have 100% occupancy. Visitors enjoy a relaxed stay, have individual attention and often become long term friends. They want a good breakfast after an undisturbed sleep in a comfortable bed. The new licensing system has come into being due in the main to the increasing number of self catering in Edinburgh and to a lesser extent, Glasgow. It has been dressed up to look as if it is for other reasons and some of the requirements for new custom built accommodations and self catering lets, whilst being draconian, are not all unwelcome. (This is acknowledged in the OIC Report, Item 8 Appendix 2 but the OIC repeated response gives little confidence that they actually understand the b and b business either, the legislation is demonstrably unfair and will have a negative impact.) There has been some disturbance to neighbours by visitors holding noisy parties, all of which could have been dealt with under existing legislation - indeed Airbnb, seen unfairly as the cause of the trouble, have added a 'no parties' rule to their booking conditions, it will not stop a party but will result in the perpetrators losing membership of Airbnb. It should go without saying that a small 3 bedroom family home in [location] with the owners on site 24hrs a day is unlikely to suffer from the same issues!

There has been some public discussion of the proposed OIC fee structure. Whilst understanding that it has to be self financing it still seems far too high for what should be checking a few certificates and other documents to be provided by the householder. From OIC responses given during the recent Destination Orkney public meeting and following publication by other local authorities of their proposed charging this is apparently going to be reviewed; let us hope that it is and for the sake of all other accommodation providers in Orkney a more sensible and simpler scheme is devised. (We would be paying £388 for our two rooms for a season that lasts around four months each year and during that time we have less than 25% occupancy, a figure which for what is now a 'hobby' business is acceptable to us.)

Apart from the cost of the licence there are a huge number of hidden charges, we for instance have pieces of furniture in the guest areas that are family pieces or made by ourselves, all of this would have to be replaced along with our mattresses and bedding, none of which we have invoices for. I will not go through the remaining requirements as anyone with a modicum of common sense will realise that a lived in house will comply with. For ourselves at Bedrock, [person] and I had already decided to reduce our bookings for next year to just two or three couples a month for the 4 month Orkney tourist season and the small income from that would leave us out of pocket so we have reluctantly decided to close at the end of this season. Had we decided to continue with a 'normal' season it would still not make good business sense to continue.

During our time using our family home we have had 100% positive comments from guests both in our own visitors book but also on Airbnb -

	<p>we were designated Superhosts - TripAdvisor and Google Business. We gained Green Tourism Silver award, the only b and b in Orkney to do so at the time. We consider the opinion of our guests to be the most important result of their stays with us, if they are unhappy with what we have provided, the standard and safety of our accommodation they would not be giving us the excellent reviews and comments we have received. Worth reiterating here perhaps that this is our home, a fundamental difference from self catering or b and b without the owner living on site.</p> <p>Without the proposed legislation we have managed to:</p> <ul style="list-style-type: none"> a) not burn any of our guests to death b) not electrocute any of them c) not poison any of them d) not give them legionella e) not kill them with carbon monoxide f) not be asked for any of the information we now are expected to provide. <p>The legislation is unfair, for establishments in the Central Belt the costs are a tiny fraction of their income but for businesses in Orkney they will be prohibitive, especially for existing businesses who are operating perfectly safely but will not have the paperwork to prove the obvious.</p> <p>Let us reflect that the SNP government has refused to give Orkney RET on ferries from the Mainland, refused to fund replacement internal ferries and refused to give Orkney a block grant that compares to other island communities. They now expect OIC to roll over and blindly accept legislation brought in to appease SNP supporters in the Central Belt.</p> <p>There is really nothing positive to be said about this legislation. It will not put more houses on to the market - we will not be selling our home and I doubt if many others in the same situation will either. It will probably increase the number of self catering properties thus reducing even further the availability of houses for purchase or long term rental. Despite the limited tourist season here people are still finding it more lucrative to offer short term self catering lets rather than long term. Those who have been, like me, resident in Orkney since the 1970's will remember that OIC used to encourage the building of self catering properties, giving planning permissions that would not have been granted for dwelling houses with a stipulation that they had to be short term lets for a minimum of (from memory) three years.</p> <p>The worst thing of all is to think of the number of people who have enjoyed their time staying with us, in Orkney, the interactions we have had and the new friends we have made.</p> <p>In response to information provided, operator responded:</p> <p>“Thanks Elaine, from listening to the Destination Orkney discussion it does look as if the SNP have managed to produce a piece of legislation that is of little use in the real world but has to be complied with. It will probably not even stop parties in Edinburgh although the Airbnb rule might help. I will watch out for the results with interest.”</p>
37.1.	<p>Received 6 August 2022 from the same host / operator:</p> <p>“Since sending in my letter some additional information has become available not least of which is the course being adopted by Edinburgh who,</p>

	<p>if the information is correct, are only applying it to designated areas. It follows that the simplest solution for OIC is to do the same having first checked that no existing businesses are within those areas so no need to worry about license fees, administration costs, losing accommodation providers and thus actually supporting the sustainable tourist industry in the county. If any new businesses do want to set up within those areas they will of course be expected to comply with the legislation.</p> <p>In fairness to the licensing department, decisions such as this are probably outwith the remit and competence of the department so the full Council needs to be involved, not just the licensing committee.”</p> <p>The Licensing Service responded:</p> <p>“The “designated areas” in Edinburgh to which you refer are Control Areas. They relate to Planning designations / zoning and the Control Area in Edinburgh covers the entire City.</p> <p>Here is a link to an article about this on the Scottish Government’s website: https://www.gov.scot/news/controlling-short-term-lets/</p> <p>Orkney Islands Council has not brought in any Control Areas and currently has no plans to do so.”</p> <p>The operator responded:</p> <p>“Thanks Elaine for the clarification, it still does not change the problem with the legislation being unnecessary and grossly unfair but then we are having to deal with the SNP government that is bent on controlling all of our lives and pays no attention to alternative views.</p> <p>Stay at any owner occupied small b and b in Orkney and you are as safe if not safer than you are in your own home.</p> <p>Good luck with trying to get your heads around this but please be aware that 'guidance' is just that and does not need to be followed, especially when written by people who have no understanding of the business.”</p>
38.	<p>Received 5 August 2022. Visitor to premises:</p> <p>“As a repeat visitor to the islands, and especially [one of the North Isles] I would like to add my voice to those calling for OIC help in the transition to self catering regulation.</p> <ul style="list-style-type: none"> • Tourism demand in the Highlands and Islands is clustered in a much shorter season than the all year round cities like Edinburgh. • Accommodation providers I have dealt with are individuals earning a living rather than businesses pursuing profit. • Capital funds to improve property standards in line with the regulations are likely less available and the imminent compliance timescale makes it difficult for these Orkney welcome hosts to spread the ongoing costs of initial and ongoing compliance across their fee-paying guests. <p>If you can find a way to assist these vital Orkney ambassadors with inspections, remediation work and ongoing license fee payment terms - there will be Orkney welcome hosts for me to play my part by visiting again in future.”</p>
39.	<p>Received 5 August 2022. Status as host and location of any premises unknown:</p>

	<p>“Edinburgh is only applying the scheme to certain areas. OIC could do this creatively. Fir example only applying to to STL businesses located at Hatston Pier, or The Horse of Copinsay. That complies with the legislation. The actual charges are ridiculously over the top. A light touch processing and absolutely minimal inspection regime is all that’s needed. For example if a premises has accreditation from a tourism body then it can be licensed at cut price, no i or toon involved. Also in terms of the standard inspection frequency for other low risk food hygiene and health and safety premises the proposed scheme is grossly excessive. One example is the ludicrous price for producing a certified copy of the licence. It’s extortion not cost recovery.”</p> <p>In response to information provided, operator responded: “You have to be much more creative in working round these regulations to make them fit Orkney. Whatever happened to island proofing?”</p>
40.	<p>Received 5 August 2022. Premises in Mainland Orkney: “As the owner of a self-catering cottage in [location], I have been closely following the information provided by Destination Orkney and the ASSC regarding the Short-term Lets Licensing.</p> <p>I accept that this process is going ahead and I am aware of the timescale. However, I am very concerned about the additional costs that I will incur and am dismayed by the proposed cost of the licence itself.</p> <p>My cottage has two bedrooms - one is a large bedroom with a double bed, the second is very small - essentially bunk beds in the form of a box bed with a bed above. The majority of my bookings are for 2 guests, but because of the small bedroom, occasionally 4 guests book, and the cottage is equipped for 4. According to the table of fees provided I must therefore apply for a licence for a capacity of 3-6 guests.</p> <p>I live in England and my understanding is that [the premises] comes under 'Secondary Letting' and the proposed licensing fee for a capacity of 3-6 guests is £476. This seems very high in general, and also in the context of a licence in Glasgow for 1-4 guests being £250 (information provided in the webinar on Monday 1st August by Destination Orkney).</p> <p>Your proposed figure for 1-2 guests is also high: £388 - this could be one week's rent for a one bedroom unit, or studio.</p> <p>Please explain how and why these figures have been chosen and why the capacity has been split into 1-2, and 3-6 guests. There will be very few properties that just sleep 2. Could the first tier not be 1-4 guests, as in Glasgow?</p> <p>In considering the impact of these additional costs to STL owners, there are several issues about Orkney that need to be taken into consideration.</p> <p>Regarding the holiday let season in Orkney, although my cottage is available for bookings throughout the year, in reality the season is May to September inclusive (20 weeks), perhaps with the odd booking in April and October. Properties in Glasgow and Edinburgh are more likely to have visitors throughout the year and with a higher rent, so higher gross incomes. Guests have to travel a long way to reach Orkney, with high travel costs (fuel, ship, hotels on the way, or flights and car hire) so increasing rental fees may put them off. Many owners, like me, just have</p>

	<p>one unit and relatively low incomes. The income from the STL may be their only income.</p> <p>For me personally, these additional costs could not have come at a worse time, following on from the global pandemic.</p> <p>Having operated since 2015, it is clear that as a direct result of the global pandemic, my income from my self-catering cottage dropped significantly. In 2020 I received one third of my usual self-catering gross income and had my claim for a grant from OIC rejected as I had other income from my professional work as a private Speech and Language Therapist. In 2021 I received half of my usual gross income from [the premises]. My professional work reduced significantly over this time and has not recovered, so that I am now in the position whereby my self-catering income is currently my main income stream.</p> <p>Bookings for [the premises] have recovered this year, thankfully, but 4 weeks were transferred over from 2020, so no income this year for those weeks.</p> <p>In addition to this, we now have soaring fuel and utility bills - I have just received my monthly electricity bill for [the premises], based on actual readings. It is £174.08.</p> <p>Until this year, each visit I made to Orkney would cost me about £300 in travel costs, but this will increase when I next manage a visit. I can barely afford to make the trip to oversee my property and arrange maintenance etc.</p> <p>The added costs of the STL are forcing me to consider all options of how to survive financially over the next few years. I may stop the self-catering business and move into [the premises] or have to sell. If I was to carry on with the self-catering but make [the premises] my home in the next couple of years, I may still need to let it and would therefore need to change status to 'Home Letting' which would incur more costs.</p> <p>I would be grateful if you would reconsider the licensing fees. A figure in the region of £75 to £100 for a 3 year licence would be more manageable and what I was hoping for.”</p>
41.	<p>Received 5 August 2022. Premises in Mainland Orkney:</p> <p>“It’s fine we will all be regulated together. That someone will check all the accommodations have all the certificates for safety in place they need. Many already mandatory with no one checking. Good to know everyone is in the same boat and has to be regulated by law. Safety is of the most importance. Especially if it’s other folks lives at risk.</p> <p>I look forward to you sending me an application when they become available. I wish to register for a Short Term Accommodation Provider Application when you have them ready. Thank you.</p> <p>I know the prices and what is required for each license. Thank you gif your email.”</p>
42.	<p>Received 5 August 2022. Premises location unknown:</p> <p>“I am writing to respond to your consultation on short term lets.</p> <p>The proposed license costs will directly impact the profitability of my secondary letting activity in Orkney. I will also have administration costs in dealing with this additional burden. Unlike the council I will not have the</p>

	<p>option to pass on the license or the administrative costs in obtaining and renewing a license to anyone other than my customers. Raising the price of my accommodation to tourists and visitors will reduce the number of customers I can attract and will therefore directly affect the amount of money that is brought to the hospitality and other sectors of Orkney. I believe this is counter to the objectives of the islands in preserving and boosting economic wellbeing.</p> <p>I therefore propose that the license cost is reduced as much as possible and I request that the license is valid for 5 or more years and at a cost lower than currently proposed for 3 years.</p> <p>I also note that the administrative costs for the council in making the safety checks it deems necessary and issuing a license will be substantially the same for secondary letting as it is for Home Sharing and Home Letting so these should be equalised. I do not understand why the council seeks to discriminate against secondary letting in this way.”</p>
43.	<p>Received 5 August 2022. Premises in one of the North Isles:</p> <p>"I wish to respond to the consultation on the Short Term Lets Licensing scheme which came into force on 1st March 2022.</p> <p>This could not have come at a worse time for me - having spent a long time during the Covid outbreak renovating a property which had previously been tenanted and left in a poor state. The renovation took much longer and cost much more than expected due to lack of tradesman availability and delay in sourcing materials. The fact this I live in [one of the North Isles], where my self-catering property is located exacerbated the delays - I was finally able to let the property for self-catering at the end of April this year.</p> <p>The tourist season on [one of the North Isles] is so much shorter than even on Orkney Mainland due to several things such as additional cost of getting here, ferry timetabling etc. I am a member of Destination Orkney and regularly get emails seeking holiday accommodation - since I became a member there has never been an enquiry looking for accommodation in the North Isles let alone [the particular island]. We also face higher costs with everything we need to transport here having additional freight charges.</p> <p>The application fee for the new scheme is bad enough but fulfilling the requirements which need to be in place before a licence application can even be made is so worrying. The survey and certification of gas and electrical supply and appliances (including electrical installation condition report, PAT testing of portable appliances etc) requires to be undertaken prior to application and must be undertaken by specialists. Waiting times for getting relevant contractors to the islands are often lengthy.</p> <p>[The island] has a thriving community and as the years have gone by tourism has become extremely important to [the island] for many reasons. For visitors with local connections needing accommodation when attending family and social events any reduction of available places to stay would be damaging to the well-being of the island.</p> <p>I hope that OIC can review their proposals to be fairer for islanders. As well as looking for a reduction in the level of fees for islanders a much longer grace period to prepare for the changes is urgently needed and hopefully even some level of assistance towards what could be substantial costs running in to the thousands."</p>

44.	<p>Received 5 August 2022. Premises in Mainland Orkney:</p> <p>“I am writing to register my complaint at the proposed fees for short term licenses. I recall the Scottish Executive realising that they had a problem in the city of Edinburgh with many properties being let out through Airbnb, which adversely affected the local residents with noise, a lack of parking and generally the losing of a community feel to an area. The licensing of short term lets proposal seems to have stemmed from these issues. However, the proposed licensing doesn't solve these initial problems. Detrimentially, it does have far reaching effects for myself, and people in a similar position to me. My situation is being treated exactly the same as a room let in Edinburgh, although it is in fact a very different scenario.</p> <p>I let out one room for two people registered on airbnb. I have plenty of off road parking and my guests do not impact my neighbourhood negatively. I usually take bookings from May until September and earn a few thousand pounds per year.</p> <p>Under the new scheme I would be required to pay £310 for a licence. Compare this to someone in Edinburgh who is renting out a property for up to 10 people and charging between £300 and £700 per night who would pay £799 for a licence, and it seems that I would be affected disproportionately. Since the licence fee is to cover administrative costs only, it seems to me like I am only paying somebody to do an unproductive job.</p> <p>The Scottish Executive should be encouraging people to make a living, not making it harder. Profit margins are already getting tighter for people in Orkney in the hospitality business, with soaring energy prices and food cost as well as transport to the islands being expensive for guests. I realise this is not a council initiative, but I'm very disappointed with those at Holyrood. One size does not fit all as they say.”</p>
45.	<p>Received 5 August 2022. Premises in Kirkwall:</p> <p>“To whom it may concern,</p> <p>With regards to the Short term let licensing Policy draft I have huge concerns with needing a licence for each property and this needs clarification.</p> <p>Do they need to be in the same building to qualify as multiple accommodation, what does 'same/each premises' mean?</p> <p>I feel this is hugely unfair and it should be a licence per business.</p> <p>I would sincerely hope the council commits to its proposal of a three year licence.</p> <p>The fees are far too high.</p> <p>There should also be another bracket for properties of 2-4 occupants.</p> <p>As the licence is for three years can we presume the Licence costs are fixed for the term of the licence?”</p>
46.	<p>Received 5 August 2022. Visitor to premises in Mainland Orkney:</p> <p>“I am writing in support of [host] who has offered accommodation at [premises] for at least 20 years. I, and my family, have stayed at [premises] for 5 years and plan another holiday there next year.</p> <p>We have found the chalets comfortable, very well appointed and in a beautiful situation.</p>

	<p>We must spend about £2500 during our stays in Orkney taking account of travel, accommodation, food and presents. The ferry transporting visitors is always full and suggests that they also contribute appreciably to the Orkney economy.</p> <p>While we understand the reasoning behind the decision to levy license fees on the owners, it will inevitably cause businesses to close down and will harm the local economy. We hope that ways around the problem can found and that a decision can be delayed until then.”</p>
47.	<p>Received 5 August 2022. Premises in Mainland Orkney:</p> <p>“I write to express my concern with the licensing scheme to regulate short term lets, which I believe will be fatally flawed as was the private tenancy agreement that the Scottish Government (SG) introduced. It is due to this agreement that, presently, there is such a shortage of longer let tenancies available and this has been created due to the difficulty in evicting an unsatisfactory tenant and getting back control of the landlord/owner's property. Therefore, many landlords moved into the short term let market to actually have control over their property. This is the reason for myself offering short-term rentals.</p> <p>Previously, licensing conditions, potentially, could include meeting guests and this is the very thing that we all have been making efforts to avoid in the Covid pandemic; for our own safety and the safety of our guests. Check-ins and check -outs not allowed between 11pm and 7 am, this would rule out many of my guests as this would not fit with many ferry timetables in Orkney. "Fees: to cover the cost of the establishment and running cost of licensing." Fee charging regime". We were told and I firmly believed that the SG was attempting to get our industries back on their feet - perhaps this is not what is planned with the costs mooted! Host checks regarding criminal convictions - really. Unannounced visits with the potential to enter forcibly, if necessary - this is just unacceptable!</p> <p>Does the local Planning Department and relevant services have enough staff and time to administer this timely, in order that we are all licensed in time for a tourist season. We cannot afford to be penalised by regulations and criteria that are not deliverable to meet the tourist market that operates 365 days a year.</p> <p>Each short term let with ever rising costs; cost money to establish, it also is hard work and continual work in a busy season and the money generated from guests is spread far and wide through our communities. In the current times and with Covid 19 still ongoing, it has been essential for many guests to have a holiday or to stay for work placements in short term lets. Categories, based on the amount of beds in the property and the scale of charges accordingly will impact our industry as many cannot afford the licensing fee and, potentially, may not continue or reduce the amount of bed space to pay a lesser licensing fee. Can we really afford to jeopardise this industry and the economy in our peripheral areas by allowing such a flawed regulation to proceed? We need a high street and support of our shops, not to spoil our tourist trade, which keeps our shops viable over the winter months.</p> <p>The cost of living impacts us all. I urge you to show support to the short-term let market and explore all options rather than penalise and over</p>

	<p>regulate this industry. Currently in Orkney, there is more demand for short-term rentals than availability.</p> <p>I trust that you will give my comments due consideration.”</p>
48.	<p>Received 5 August 2022. Premises in Kirkwall:</p> <p>“I understand that new fees are being introduced in Scotland for short term let’s. Whilst I appreciate a lot are trying to get involved in the short term air b and b scheme to try and capitalise revenue this seems unfair for established business such as our guesthouse which has been a family business for 17 years.</p> <p>Like us I’m am sure that there are others who as standard have fire extinguishers serviced annually as well as a heat sensor system, food hygiene course trained occupiers as well as paying a fee to be a rated guesthouse with Scottish tourism.</p> <p>We have public liability insurance for our own protection as well as our guests. We in my opinion. Do everything we can already but it would seem that despite for forking out for all of this we are about to be hit with a fee because we are in the industry yet we have always gone above and beyond with standards as standard.</p> <p>It seems ludicrous that with a proven track record we are getting tarred with the Same brush. This fee is inadequate for b and b’s who have been supporting the local economy for years only to be told we have to pay on a “just cause” basis.</p> <p>This fee should be waived from established businesses.”</p>
49.	<p>Received 6 August 2022. Premises on outskirts of Kirkwall:</p> <p>“Here are our views as new business operators of a B and B, on the outskirts of Kirkwall, for the proposed STL licensing costs proposal.</p> <p>We feel this licensing is an unnecessary and unwanted burden on small businesses who have operated safely and within guidelines for many years, offering a high standard of accommodation in Orkney. The Orkney tourist season is short compared to cities and towns on mainland Scotland and with already higher living costs and expensive travel costs to the islands this is going to put further strain on small businesses who will inevitably have to close. This will be a massive loss to the tourist economy in Orkney and the provision of a genuine Orkney welcome and taste of our culture offered by the people of Orkney ‘Orcadians’ sharing their homes and properties, along with their wealth of knowledge and experience, with visitors and workers to the island.</p> <p>We have a small B and B which we purchased in January 2020, only managing to operate for a few months from August last year and fortunately having a busy summer period this year. We have had no financial support due to not operating before the lockdown and we have poured all our time, money and energy into creating a high standard of accommodation within guidelines from planning, registering with environmental health, appropriate insurance etc. The additional mandatory requirement costs along with the licensing costs will mean increased prices and thus probably result in a loss of business. This is our home as well as our business and livelihood and is in no way impacting on the lack of housing or causing any anti-social, neighbourhood or parking issues in our area.</p>

	<p>We would like to see financial support for all small businesses already operating and struggling to survive after the pandemic for the initial costs for PAT testing, EICR, additional fire safety equipment/notices etc and a waiver or at least reduction in the licence cost. After the three year period we can hope the small businesses will have had the chance to recover and be in a position to make better judgement on whether it is viable to continue trading for the next three year period. 0</p> <p>My questions are:</p> <p>How are the OIC going to police this to ensure ALL short term lets are licensed and keep the regulating fair?</p> <p>How often do we have to PAT test within the three year licensing period?</p> <p>Are all premises going to be inspected?</p> <p>Is there a OIC representative going to be available to help and take questions from short term let providers, preferably in a group setting/via teams?</p> <p>Why is this consultation taking place now in the height of the tourist season rather than when the accommodation providers have more time and energy to fully engage?"</p>
50.	<p>Received 6 August 2022. Visitor to premises:</p> <p>"I'm a visitor to the Orkneys although I used to live on Westray. I understand the need for oversight however the level of fees seems extraordinary. I would have thought this would be a minimal cost.</p> <p>I'm at a loss to understand why any professional body would need this level of fee to support scheme administration and policy development. This should be "meat and drink" to a Council, and when you take into account that all Councils are in a similar position, why don't you just have one template, using best practice/systems, with tweaks if/as needed? Surely all Councils are not going to use or develop different systems, processes, practices, policies etc., with some charging more because they're less efficient? I believe Orkney Council's proposed fees are high in relation to others.</p> <p>With the higher cost of island living, surely you do not want accommodation businesses to die off, leading to further isolation of islanders, increased poverty and eventual depopulation?</p> <p>Please review your fee levels, how you propose to put those into effect, where and how you're going to spend these funds. It seems to me someone has stuck a pin in a board, guessed how much it'd cost you if you a)didn't know what you were doing, b)don't have systems and can't leverage anyone else's and c)aren't going to work with others for a solution."</p>
51.	<p>Received 6 August 2022. Premises in Mainland Orkney:</p> <p>"While we appreciate that you have to implement the Law as laid down by the SG, we also believe that your proposed fees are too high. Pretty well all accommodation providers on these islands have a short season and higher costs than the rest of Scotland, yet your suggested fees are the highest proposed so far. It is not as if you have to set up a completely new department, you already have a Licensing Department for both Landlords and Alcohol, so this surely is just another string to that bow, yes you may</p>

	<p>have to employ an extra body or two but we can't believe that a good proportion of the extra work cannot be accommodated by your present staff.</p> <p>The fee structure that you have published seems to be unnecessary complicated, if Glasgow Council is capable of coming up with a much simpler and much cheaper fee structure then we feel that you need to rethink your proposal. Glasgow will have far more providers and that simply means their council will have more applications to process. However it appears, that a two tier fee system is deemed adequate and they can propose a home share STL for 4 or under at £125 and £275 for 5 or more. Why not come up with something similar, bearing in mind that providers in Glasgow are not limited to 5/6 months of the year? We cannot understand why we need a 4 tiers fee system, surely the paperwork/certificates will be the same regardless the number of occupants (guests)?</p> <p>We realise that all the information that is needed to comply with this legislation is available, provided you search through all the sources of information. It would be helpful to all of the applicants, if there were a very simple and straightforward checklist. This would enable a one-stop place to simplify different types of providers and a list of qualified suppliers within Orkney that can carry out any necessary tests and supply the various certificates that are required by SG</p> <p>Tourism is a major factor in Orkney's economy, it is also a much needed income to many of the providers here, this legislation will, we believe, threaten this economy. There are already providers who are walking away from the industry, not just here but all over Scotland. Visitors who come to Orkney already have the extra expense of no RET, they will now have to suffer the extra costs added to accommodation (that is if they can find accommodation) as providers have to increase their prices in order to cover the extra outgoings, incurred to gain a Licence. This will lead to fewer holiday makers, which could in time start a downward spiral on the whole Islands economy. Providers will close down if they no longer have viable businesses and this will have a knock on effect to pretty well every business on the Islands. Orkney attracts visitors because it is a vibrant beautiful place, we won't lose the beauty but we certainly could lose the vibrancy. We already have empty closed shops in Kirkwall we really don't want to see more, nor will visitors and that would include the cruise liner passengers.</p> <p>Yes you have to implement the Law but you also have it within your power to work with providers and help to make this legislation as painless as possible.</p> <p>FINALLY: We are all in this together. Please make it easier for everyone to deliver. Maybe the OIC could consider at least offering to spreading payment over a few months.”</p>
52.	<p>Received 6 August 2022. Premises in Mainland Orkney:</p> <p>“Thanks for the opportunity to comment on the short term let licencing proposals. As you'll no doubt be aware these proposals have caused concern in the self-catering sector which is still very much struggling to bounce back from Covid (our booking are still running at around 70% of the pre Covid levels, with continued short notice cancellations).</p>

	<p>From the perspective of our business these are our comments:</p> <ul style="list-style-type: none"> • As we are all aware, the legislation was designed to tackle a very specific issue in the central belt, and therefore OIC had the opportunity to apply a tight touch approach. The emerging data would suggest that the pricing structure is going to be one the most expensive of the Scottish Local authorities, this is difficult for the sector to swallow given our short season and relatively low market rates for lets, compared to similar properties in the mainland with longer seasons. We appreciate OIC’s argument that they lack the economies of scale of other local authorities, but would ask that they look at the savings or efficiencies that they could make to reduce the price of the scheme rather than pass the cost on to the business community at a time when we are already being crippled by increased energy and running costs. • We’re disappointed that there hasn’t been any meaningful consultation with the sector ahead of proposals being agreed by the Council’s Executive team and then going to the Licencing Committee. Getting the right balance of regulation and market regulation, and the right balance of nurturing sustainable tourism and managing the supply of housing are complex and sensitive topics, where workable solutions are most likely to emerge through meaningful dialogue, not through email consultation processes. • One of the worst case scenarios we can envisage is not only that we are left paying the licencing costs, and the costs of the associated accrediting that sits behind the licence, but that demand / inflexible working practices means that property inspections cannot take place at times that are economically viable i.e. we end up having decline bookings / block out nights to enable an inspection to take place. In order to avoid this we’d like assurances that OIC will match the resource to the needs of the sector i.e., more inspection staff available out of season, a guaranteed turnaround time for inspections and providing Saturday inspection to prevent the inspections also resulting in lost booking income. • The application process and inspection process needs to be as smooth and user friendly as possible. OIC’s digitalisation of it’s services lags behind many other local authorities and we’d strongly encourage OIC to understand what best practice looks like rather than adopting the tried and tested local standards. • The scheme doesn’t seem to have taken into account the specific challenges that the isles face (even shorter season, even lower market prices, lack of access to people who can provide certification and probably less flexibility on inspection dates). <p>In summary, this is an unwelcome piece of legislation and OIC need to work with the sector to create something that workable in our uniquely challenging context – and the current proposals don’t yet achieve this.”</p>
53.	<p>Received 7 August 2022. Premises in Mainland Orkney: “‘This really is not helping small businesses at a time when we are facing severe price hikes. If I have to pay this ridiculous fee for this license can the council please stop blocking off the entrance to my property every time there is a high tide in the Hope.”</p>
54.	<p>Received 7 August 2022. Planning Service – attached as Appendix 1B.</p>

55.	<p>Received 7 August 2022. Premises in Mainland Orkney:</p> <p>“The imposition of additional burdens for people in Orkney who offer accommodation for (in the main) visitors on vacation will become a tax on tourism as most operators will have little choice but to add the charges (and additional costs to meet associated testing etc.) to customers. Orkney is already a very expensive place to get to as RET is not in place, costs for flying are extremely high, and fuel costs for private transport have hugely increased in the past few months. Added to burgeoning energy costs, as well as those for local trades (who would be expected to supply relevant safety certification), charges per night may have to rise by 10-15% on the Orkney mainland in 2023 /24 with regular increases year on year. This could have the effect of reducing the footfall to Orkney of a whole group of visitors which are not day-trippers and who have time to spend money across a range of businesses including those run by the OIC.</p> <p>Individual accommodation providers would have to react to reduced bookings by having to either hike prices even further or to close. This is likely to have a knock on-effect to other sectors of the Orkney tourism industry and to jobs.</p> <p>The timing of the SNP Scottish Government imposition could not be worse, coming on the back of 2 years of severe constraints due to COVID restrictions. Many accommodation providers fell outwith financial help during this period and are still trying to fill the hole left in incomes.</p> <p>The situation for accommodation providers on the Orkney Islands will be far worse as costs to get from the Orkney mainland to the Isles are high and costs of providing accommodation also higher. The OIC could well help to kill off tourism in the Isles at one fell swoop by imposing the level of costs it is suggesting. The act itself is a one-size-fits- all approach from a central-belt-centric government, designed to address housing problems in Edinburgh and Glasgow, in particular, with no thought to its impact on economically more fragile areas. High charges, as posited by the OIC in this consultation, will only serve to aid and abet this discriminatory policy. Costs should be halved (of the posited rates) for all Orkney mainland providers and then subject to a further 50% discount for Isles providers.</p> <p>Thank you for the opportunity to contribute to this consultation.”</p>
56.	<p>Received 7 August 2022. Premises in Mainland Orkney:</p> <p>“We recently converted a small derelict mill on our property into a one-bedroom cottage, which we have operated as a self catering holiday let since July 2021. [Premises] has one bedroom and can accommodate a maximum of two occupants and we charge £400 per week during the period from April until October. Under the current proposal we would be liable to pay a charge of £388 for a 3-year license to continue operating our business – almost one week’s rent.</p> <p>Whilst we understand that Orkney Islands Council is legally required to administer the licensing system and charge fees to cover the resulting costs, we feel that the proposed fee levels are disproportionate when the relatively short length of Orkney’s tourism season is taken into consideration. Orkney’s season is mainly concentrated over the spring and summer months, unlike city destinations on the Scottish mainland which</p>

	<p>attract many visitors all year round. Businesses in Orkney therefore have a lower ability to absorb the additional costs introduced by this scheme.</p> <p>The self catering sector contributes greatly to Orkney's wider economy – our guests generally stay for a week or more and they shop locally for day-to-day food items as well as souvenirs and gifts; they also eat out in cafes and restaurants. This all helps to support the ongoing viability of the county's home-grown businesses.</p> <p>We feel that due regard may not have been given to these factors and that the proposed fee structure should be reconsidered.”</p>
57.	<p>Received 7 August 2022. Premises in Kirkwall:</p> <p>“Firstly, we recognise that this is not something thought up/imposed by our local authority but rather Scottish Government legislation that has to be carried out by each authority.</p> <p>In general, we feel that Regulation of Short Term Accommodation through a licencing scheme is a good thing, as providers should be operating to certain standards. As a self-catering provider we have always been keen to operate to a high standard and are already aware of the necessity and importance of electrical compliance, appropriate insurance etc. This was also necessary for us to become members of the ASSC and other bodies. We, therefore, do not feel that there are additional requirements being ‘put on’ us to meet the requirements for application.</p> <p>We do, however, suggest that Orkney gives consideration to their charges as we hear that those proposed are almost the highest in Scotland. We agree that the charges should be on a scale dependent on the sleeping capacity of the accommodation. We listened to the discussion in the Council Chamber as to whether the charges for providers in our outer islands should be less due to their increased operating costs. We have mixed feelings about this as we know that visits to many of the outer islands of Orkney are very popular, with some being almost booked up for next summer already. Also, if a certain amount of money needs to be generated by the authority to cover the costs of managing this regulation a reduction for some would inevitably mean an increase for others to allow the books to balance.</p> <p>We would urge accommodation providers to consider the actual cost of obtaining a licence on a weekly or nightly basis as it does not work out at much compared to the escalating and unknown cost of electricity etc. These additional costs will, in many cases, be passed on to guests but this is going to be the case regardless of where they visit in Scotland.</p> <p>We appreciate that our local authority does not plan to add additional requirements to the mandatory terms at this point.</p> <p>We trust that our local authority will employ/redeploy people who are knowledgeable, efficient, approachable and interested in tourism.”</p>
58.	<p>Received 7 August 2022. Premises location unknown:</p> <p>“This is a email from one of many, I imagine, accommodation providers who are giving up as we don't have enough income to justify the expense associated with licensing.</p> <p>We have been an Airbnb operator since 2017 doing what it was originally set up for, offering unused area of our home, a bedroom, lounge and bathroom for just the busiest part of the season, May until late August.</p>

	<p>During that time we have hosted many lovely guests and have had lots of great reviews. All our guests have been fed local produce and have spent money in local shops, restaurants etc.</p> <p>By ceasing to operate we will make no difference to long term housing availability but we won't be able to help ease the pressure on tourist accommodation in the peak season.</p> <p>One particular instance from this summer comes to mind, we had an urgent request from St Magnus Festival visitors, an elderly couple, they were camping and their tent was wrecked in the bad weather and as we'd had a covid related cancellation we were able to take them in. Where would they go another year when there will be a reduction in accommodation providers?</p> <p>This seems to be 'a sledge hammer to crack a nut' situation, there is a considerable difference to the visitor situation in the Grassmarket in Edinburgh and a quiet rural area in Orkney! Did our Council consider questioning whether a blanket regulation was a fair one?"</p>
59.	<p>Received 7 August 2022. Premises in one of the North Isles:</p> <p>"I am writing in response to your consultation regarding fees for short-term let licensing.</p> <p>I have professionally operated self-catering on Orkney for the last 20 years to Visit Scotland 4-star standard. I presently run cottage on [one of the North Isles].</p> <p>The Scottish Government initial proposals suggested fees were estimated to be between £214 (with 10% inspection rate) and £426 (with 100% inspection rate).</p> <p>The fees proposed are much higher than this, and significantly more than other local authorities in Scotland. E.g. Glasgow City propose £250 (1-4 guests) and £400 (5+guests).</p> <p>This would equate to approximately 1 night in peak season in Glasgow, whereas the OIC proposal would equate to 1 week peak season rental in Sanday. Our business operates in the fragile outreaches of Orkney, employs local islanders and with an already short letting season, any increased costs risk future viability.</p> <p>I question why there should be such divergence in charges on property size and would urge the Council to revert to a much simpler fee model for the initial phase - along the lines of the Glasgow model of £250/£400.</p> <p>Tourism is one of the cornerstones of the Orkney economy and the introduction of this scheme is beyond the control of OIC, but the setting of modest, manageable fees is not."</p>
60.	<p>Received 7 August 2022. Premises in one of the North Isles:</p> <p>"I'm writing in reference to the consultation regarding short term lets.</p> <p>My family lives on [one of the North Isles] where the holiday season is short and still establishing itself.</p> <p>We have just bought a ruined cottage that needs full renovation. Our plan was to get it to a standard where it could be rented put as a 'camping barn' then put the money we made from the rental, back into the cottage and land constantly increasing the standard of accommodation until the ruin</p>

<p>was back to a fully functioning home, giving our family a much needed income stream.</p> <p>We can get a loan to begin the work but then need to fund it through the short term rental market. We would then have the option to continue with short term lets, offer it as a long term let or put it on the market.</p> <p>Our concern is that the new licenses and fees would make this plan cost prohibitive, leaving another property to fall beyond repair on the island and leave us without this source of income.</p> <p>We love [the island] and would like to continue to raise our family here but need to find ways to make our lives financially viable.</p> <p>I wanted to highlight our situation as I believe short term rentals on the isles provide much needed extra income for the residents but don't provide huge profits, many just covering running costs which pay the owners a wage for offering accommodation bringing much needed tourism to the isles.</p> <p>I hope you can offer some way of making this new legislation financially viable.”</p>
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2022-08-10.

Destination Orkney – Consultation Feedback 07.08.2022

Short-term Lets Licensing - Consultation - Fees for Short-term Let Licences and Duration

2. Recommendations

2.2 “the Council has the power to charge such reasonable fees as it may determine in respect of applications made to the Council under the short-term let licensing scheme”.

How has ‘reasonable’ been measured and addressed for this local authority?

Compared to other local authorities, and the Scottish mainland in particular, Orkney will have higher energy, fuel and shipping costs and in many cases higher contractor costs for their mandatory H&S checks and certifications due to a limited number of suppliers. This is particularly true for STL providers on the outer isles who also must factor in the cost of getting a contractor over from the Orkney mainland.

2.3 “although a comparison of fees charged by the Council with fees charged for similar types of licences or approvals by other local authorities in the north of Scotland would ordinarily be undertaken, this has not been possible as there is currently no information available to compare”.

Also noted in 5. Benchmarking

5.1 “it is often useful to compare fees charged for similar types of licenses or approvals by other local authorities in the North of Scotland”.

5.2 “all licensing authorities are currently going through the same process of setting up a scheme. As a result, there is no data available with which to conduct a benchmarking exercise”

This was the case on the initial calculation but it is now possible to compare with other local authorities proposed fee structures proposed and their calculations before finalising the Orkney license scheme.

The fee structure for Orkney is based on an ‘occupancy capacity only’ calculation – it does not account for any variance in revenue across similar occupancy properties (e.g. due to Quality Assurance grading, type of short term let property) or for different geographical locations in Orkney (e.g. town, rural or outer Isles.

3.3 “a licensing authority may charge such reasonable fees as they may determine in respect of:

- “An inspection of premises following:
 - A failure to comply with a licence condition,
 - A complaint relating to the premises (unless the complaint is frivolous or vexatious”

Also noted in 4.3.1

“In contrast, and as noted in section 3.3 above, licensing authorities may charge a fee to a host or operator for a visit to their premises where the visit results from their failure to comply with licence conditions, or a complaint which is not frivolous or vexatious.”

In Appendix 1.

An inspection of premises following:	
<ul style="list-style-type: none"> a failure to comply with a licence condition, or 	(to be confirmed)
<ul style="list-style-type: none"> a complaint relating to the premises (unless the complaint is frivolous or vexatious). 	(to be confirmed)

If not yet confirmed they cannot be included in this consultation on fees.

4. Scottish Government Guidance

4.2 “With regard to setting fees, the Guidance notes that licensing authorities are experienced in running other forms of licensing schemes and keeping costs down. In line with this, the Scottish Government expects licensing authorities to have regard to minimising costs through:

- Economies of scale.
- Integrating service delivery with other housing and licensing functions.
- Using online and digital verification where possible, for example through photo and video evidence instead of a visit.
- Taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher”.

Orkney is in an unfair position to benefit from economies of scale given the number of STL properties compared to other local authorities.

4.3 The Guidance also states that licensing authorities must not charge:

- Hosts or operators for visits to premises where this is a routine part of processing an application or part of the licensing authority’s ongoing assurance processes; or
- Neighbours or others for handling objections”

What cost or proportion of the fee has been allocated to the anticipated site visits in the application process?

Have these been estimated as higher than in other local authorities due to the anticipated labour costs and travel costs to reach the outer isles and furthest points of the Orkney mainland?

Given Orkney is already a costly destination to reach, it is may not be possible to just pass the additional costs associated with the license scheme directly to the visitor through increasing letting costs. This could result in Orkney becoming a less attractive option for the independent visitor market who tend to have the highest visitor spend, visit repeatedly and remain in Orkney for longer stays which aligns with our sustainable tourism strategic objectives.

Members of Destination Orkney have repeatedly raised the issue of recovery following Covid related restrictions which has severely affected their revenue 2020-2022 and increasing operating costs are squeezing their profit margin. The license



scheme fees and associated costs for compliance in a short period of time is making their STL business unviable with closing becoming a likely option for several members.

Moreover, this will not necessarily increase the available housing pool if the STL property is a home share and in cases of secondary lets, these properties may well be retained just for family and friends' use while appreciating in value as an investment.

4.4 "A licensing authority may charge fees to cover enforcement costs once the application is granted (such as through monitoring and inspection fees)".

What will these be? If these are inordinately high and there is no option to refuse the monitoring and inspection these should be included in the fee structure or they cannot be part of this consultation.

4.5 "In general, fees are not refundable..... The Scottish Government expects licensing authorities to publish their policy on refunds so that hosts and operators are clear on the position before they make an application".

4.6 "If the application is refused, the fee charged for the processing of the application itself need not be refunded".

4.7. "and the extent to which the licence holder has complied with the conditions of the licence".

This no refund policy does not consider 4.7 where most conditions have been met. It does not refer to any grounds for appeal and will be extremely off putting to applicants who are under financial pressure and cannot afford to apply multiple times. We request that OIC considers and outlines:

- 1. The conditions where fees will be refundable -the reference to "in general, fees are not refundable" implies there may be conditions where fees will be refundable**
- 2. Their conditions for appeal when 'rejected' or 'not considered'**
- 3. The feedback to be provided when 'rejected' or 'not considered'**
- 4. A discount on subsequent applications calculated on the amount of additional work required for these applications – based on only the need for a partial check for the corrected elements - the online system should be able to store their evidence for an agreed period**

7. Proposed Charges

Throughout this section to properly consult on the calculations and proposed charges, we need visibility of the estimated figures used and the calculations.

7.1 "calculating the amount of officer time and other costs likely to be involved in processing each application and multiplying this by the number of applications likely to be received.

How many applications have you estimated you will receive?

7.2 "Due to the number of mandatory conditions and the nature of these conditions, a significant amount of staff time will be spent on checking and processing the applications"

How much staff time has been estimated – that is cost or proportion of the fees - to check and process the application?

7.3 “ There will also be a reliance on external organisations to provide input into each application..... Council officers.... Scottish Fire & Rescue Service..... Police Scotland”

Is there a cost or proportion of the fees allocated to these external organisations to support that resource?

7.4 “The Council’s Environmental Health Service will have a role in checking premises..... the costs of initial inspection of premises at the application stage will require to be covered”

What has this cost or proportion of the fees been estimated to be?

“Although enforcement costs do not form part of the calculation for the purposes of license application fees.....Officers are giving further consideration to identifying options for the enforcement of short term lets licenses including any additional resource requirements.

If not part of the fees calculation but an anticipated cost, can we assume there will be additional costs absorbed by OIC or will these attract further charges to the STL license holders following the application?

There is concern that this be an ‘Additional condition’ during the review from 1 October 2022 onwards?

7.5 “Other variables which require to be taken into account are the potential for objections to be received, which can add considerably to the time taken to determine a license application, and the involvement of Building Standards...”

Does this refer to neighbour objections? What is the cost or proportion of the fees estimated for this?

7.6 “The costs of setting up the licensing scheme, and dealing with complaints, can also legitimately be recovered through fees”.

It was stated that the development of the online application platform would be included in the fees calculation. What is the cost of this platform development and maintenance?

It has been previously stated that it would not be possible to utilise the one application platform suggested by ASSC due to data protection issues. Has there been an attempt to benefit from economies of scale in the development of a local authority application platform to be used by all 32 local authorities and therefore meet Scottish Government data protection requirements and therefore keep fees to a minimum?

7.7 “The estimated number of potential short-term let licence applicants across Orkney is 600. This estimate is based on numbers provided by the Assessor and Electoral Registration Officer, the Council’s Revenues Section, and an assessment of the number of Orkney properties featured on lettings website Air BnB”.

This figure seems unusually high. Can you please provide the breakdown of the estimation as described above?

If the estimation is incorrect, there are concerns as to how this will affect the proposed fees in that if it is lower than this, the council may not have adequate funds from the fees received to run the license scheme and licensed STL providers will bear the brunt of increased fees to cover the deficit costs following the 3 year license duration.



If it is indeed 600 then there must be a concern as to how this number of applications will be processed in the short time period between 1 October 2022 and 1 April 2023.

Also if this number is close to accurate it is evident now that there will be significant issues in all applicants securing all the mandatory safety checks and certification through local suppliers in time. Although not an issue directly relating to fees, it is a threat to the sustainability of the STL sector in Orkney.

7.12 “to reflect the Scottish Government’s recommendation that there are lower fees for home sharing and home letting licenses than for secondary letting licenses”.

Not clear on why there is a difference of 20% in fees between secondary letting and home sharing or home letting, and the lowest fee of £300 applied for temporary licence applications when it has been argued in 7.13 and 7.14 that the cost of processing each application is the same. Please explain.

7.15 “It is recommended that applications for material change of circumstances should be charged at £75 to reflect the level of administrative work required.”

How is the administrative work calculated here? What is the estimated time it will take to make the material change on the license?

As highlighted by a councillor, there is bias towards women who are most likely to have to change their name for marriage or in in a breakdown of a marriage.

We would also like clarity on whether this material change of name and/or address refers to change of ownership where all other mandatory conditions have been fulfilled by the previous owner in their application and remain valid.

7.16 “more formal legally certified duplicate or true copy licences for short-term lets or a true copy of an entry in the register of licences should be charged at the same rate as applications for temporary licences, being £300”

Considering the effort involved in providing a legally certified duplicate does not require the resources outlined in previous points from 7.1 to 7.14 to process an application this is an extremely high cost to apply at £300. Please explain why.

8. Duration of Licences

8.1 “provides that a license for a short-term let shall have effect:

(a) for a period of three years from the date when it comes into force

The duration of 3 years for a license with no option to take on a shorter license term will unfairly affect STL providers who have no plans or are unable to run the business for a full 3-year term.

Is there an option for a yearly rate be considered in extraordinary situations to be outlined, to account for the additional processing time applied to the same property?

Or as highlighted in reference to 7.15 where all the safety requirements are in place and it is basically a name change can the issued license within its 3-year term, be updated as a material change?



Appendix 2. Equality Impact Assessment: Application Fees

4. Conclusions and Planned Action

“How will it be monitored? (e.g. through service plans).

“Once application fees are agreed, they will be reviewed annually from 1 April each year in a similar way to other licence application fees and Council Charges”

Please clarify if this means that the review of the cost of licensing from 1 October 2022 will affect the calculation of the fee structure from 1 April 2023 and there is a likelihood of the fees being reduced or increased as a result.

Short-term Lets Licensing – Consultation

Development Management response (*“Officials of the Council in respect of planning”*)

Fees for Short-term Let Licences and Duration

Development Management has no comment regarding the proposed fees.

Development Management notes that the proposed licence duration of three years as the longest period permitted by legislation. This matches the default duration of a planning permission. Development Management has no comment.

Temporary Exemptions Policy

The fact that temporary exemptions would incur a fee and application process is noted, and therefore that it would represent little advantage. The temporary (change of) use of a building may require planning permission, even for very short-term temporary uses; it could therefore create disparity between planning and licensing requirements, and risk confusion and inconsistency, if specific licence types were exempted, in the context that the requirement for planning permission would remain.

Development Management therefore supports the position that the Council adopt a policy of not using its powers to grant temporary exemptions for premises.

Other Comments

Part 1. Guidance for Hosts and Operators includes that, *“Hosts and operators must comply with both planning and licensing law.”*

In relation to control areas where all use of premises for short-term lets requires planning permission, it is noted that the licensing authority can refuse to consider a licence application if it is apparent that planning permission is required but has not been granted.

Development Management suggests that this approach be taken for all licence applications – that if applications are submitted for premises where planning permission is required but has not been granted, that those licence applications either be refused to be considered or refused. Development Management would welcome opportunity to provide an early screening position on new applications, to confirm as suggested, whether planning permission is required and, if so, whether planning permission has been granted.

Many premises will have the appropriate planning consents in place. However, Development Management is aware that many properties have been subdivided, garages or other outbuildings converted, pods or caravans installed, and also houses where the number of letting rooms exceeds Class 9 provisions as a bed and breakfast. Those premises would be received and recorded on a more comprehensive basis by licensing requirements, rather than the more likely ad hoc ways that those are alerted to the planning authority under the terms of the Planning Enforcement Charter. To ensure cohesion between respective regulatory functions of the Council, and in accordance with the principle accepted within licensing legislation, holding or refusing licences for premises that do not have planning permission seems appropriate.

Of course, should any planning enforcement be required as a result of premises brought to the attention of Development Management, any enforcement in relation to planning legislation would be carried out by Development Management in accordance with the Planning Enforcement Charter.

Excluded accommodation and tenancies

The Council's draft policy repeats the definitions and excluded accommodation as included in Schedule 1 of the 2022 Order.

Excluded accommodation includes, at 1(c), *“a hotel which has planning permission granted for use as a hotel”*.

Use as a hotel is anomalous in that list, with specific reference made to planning permission being granted for that use. Whereas the same requirement/term isn't used for a hostel or other types of excluded accommodation that would also fall under planning Use Class 7. It may be helpful to have guidance to confirm that the planning status must be the same for a hostel, for example, as it is for a hotel, even if not stated.

The types of excluded accommodation do not align with the 1997 Use Class Order, which is the legislation used by the planning authority to determine when a change of use has occurred.

For example, aparthotel, hotel, and hostel are each listed separately within the list of excluded accommodation. Whereas in planning terms, those accommodation types are not separate, and all fall within Use Class 7, and an operator could freely move between these accommodation types with planning permission not required.

Also notable is that 'guest house' is not included within the list of excluded accommodation.

Guest houses, hostels and hotels are all common accommodation types in Orkney. Based on Schedule 1, it seems that guest houses are required to be licensed, but that hostels and hotels are excluded. And as stated above, all three are the same use class so there is no planning control over a premises being changed from one to the other.

Development Management suggests that (local) guidance is therefore required, to provide certainty. For example, it is not clear if there would be any impediment to a guesthouse simply referring to itself as a small hotel. There would be no planning implication (which could affect the above proposed screening process), and in the absence of guidance or criteria, it is not clear how the licensing authority would separate one from the other. i.e., there is no apparent legislative distinction between a guesthouse with ensuite rooms, reception, dining room, communal lounge and which provides breakfast and evening meals, from a small hotel which could do the same.

As a general point, the names 'B&B' and 'Guest House' are often used informally and interchangeably by local businesses, not necessarily relating to the lawful planning status of the premises, noting that a B&B is very clearly defined within the 1997 Use Class Order, as the letting of rooms within a Class 9 house.

Like guest houses, B&Bs are not excluded, and will require to be licensed. This is a further justification for a position of requiring planning permission to be granted in advance of a licence application, as there are premises operating in Orkney as a 'B&B',

whether by name or otherwise, where the number of let rooms exceeds those permitted by the use class.

Finally, as an example of the above scenarios, the below text is from the marketing information of a local tourist accommodation business:

“XXX is a family run B&B in XXX...The guest house has seven en-suite rooms...The bed and breakfast is located close to...”

Within two paragraphs, the business is described as both a B&B and a guesthouse (whereas in both planning and licensing terms, it must be one or the other). In either function, it would be required to be licensed, so perhaps no issue. However, the operation of the business is such that in planning terms it is regarded as a hostel. But that of course cannot prejudice the name or description chosen by the operator. There is no planning implication from whether this is a hostel or a guesthouse, as the function can move freely between these two operational models within Use Class 7. But of course, if the business is described as a hostel for licensing purposes, it would be regarded as excluded accommodation, whereas if it is maintained that it is a guesthouse, it will require to be licensed.

Guidance is required, locally if not provided nationally, to address this and similar issues in advance of implementation.

Jamie Macvie MRTPI

Service Manager, Development Management

6 August 2022

Appendix 5.

Short-term Lets – Licences and Other Matters.

Licensing Fees.	£.	Non-linked isles £.
	2022/23.	2022/23
Secondary Letting.		
Short-term let for 3 years (capacity up to 4 occupants)	310.00.	232.50
Short-term let for 3 years (capacity 5 - 9 occupants)	380.00.	285.00
Short-term let for 3 years (capacity for 10 or more occupants)	510.00.	382.50
Home Sharing and Home Letting.		
Short-term let for 3 years (capacity up to 4 occupants)	240.00.	180.00
Short-term let for 3 years (capacity 5 - 9 occupants)	300.00.	225.00
Short-term let for 3 years (capacity for 10 or more occupants)	400.00.	300.00
Material change in premises – Secondary Letting:		
Capacity up to 4 occupants	310.00.	232.50
Capacity 5 – 9 occupants	380.00.	285.00
Capacity for 10 or more occupants	510.00.	382.50
Material change in premises – Home Sharing and Home Letting:		
Capacity up to 4 occupants	240.00.	180.00
Capacity 5 - 9 occupants	300.00.	225.00
Capacity for 10 or more occupants	400.00.	300.00
General.		
Temporary licence for short-term let (which cannot exceed 6 weeks).	240.00.	180.00
Material change of circumstances.	75.00.	N/A
Material change of circumstances – name change only.	30.00	N/A
Formal legally certified duplicate or true copy licences or a true copy of an entry in the register of licences.	120.00.	N/A
Simple replacement or copy licences or information about an entry in the register of licences.	30.00.	N/A

Information: The first £240 of licence fees for each individual application is non-refundable.

Version No:	Date:	Details:
1.	22/06/2022.	Draft schedule of STL licensing fees for consultation.
2.	01/09/2022.	Schedule of STL licensing fees to be agreed.

**Island Communities Impact Assessment
STL Licensing Scheme Fees and Duration**

PRELIMINARY CONSIDERATIONS	Responses
Please provide a brief description or summary of the policy, strategy or service under review for the purposes of this assessment.	<p>To develop a scheme for the licensing of short-term lets in Orkney, in accordance with the requirements of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”).</p> <p>More specifically, this ICIA pertains to the Council's requirement to set fees for short-term let licence applications, and licence durations.</p>
STEP 1 - Develop a clear understanding of your objectives	Responses
What are the objectives of the policy, strategy or service?	The main objective is to adhere to the requirements of the legislation whilst taking account of local circumstances to the extent possible and desirable.
Do you need to consult?	In accordance with Scottish Government guidance, the Council is required to consult on setting fees for licences, and on the duration of licences.
How are islands identified for the purpose of the policy, strategy or service?	Islands are identified as the non-linked islands in Orkney.
What are the intended impacts/outcomes and how do these potentially differ in the islands?	<p>The intended outcome is to come up with licensing fees which will result in income sufficient to cover the cost to the Council of administering the scheme and provide a reasonable contingency, whilst representing a fair and reasonable outlay for hosts.</p> <p>The main area where the outcome potentially differs in the islands is that income streams from short-term lets are generally lower than can be achieved from properties situated on the Orkney Mainland. At the same time, overheads are higher due to increased transport costs and the requirement to engage specialist tradespeople for a period which includes travel and time spent on the island between ferries/planes. Further, the length of the tourist season is arguably curtailed by internal transport timetables and capacity.</p>

**Island Communities Impact Assessment
STL Licensing Scheme Fees and Duration**

	<p>As a result of achieving lower incomes and having higher costs, the fees for obtaining a short-term let (“STL”) licence are likely to impact disproportionately on hosts with properties in the islands.</p> <p>Further, hosts on the islands have expressed concern at the potential lack of availability of tradespeople willing and/or able to travel to the islands to provide the services required to allow hosts to comply with the mandatory licensing conditions.</p>
Is the policy, strategy or service new?	Yes.
STEP 2 - Gather your data and identify your stakeholders	Responses
What data is available about the current situation in the islands?	<p>Through the public consultation process, a number of STL providers based in the islands have responded with information about the additional difficulties they foresee in complying with the STL licensing scheme due to their location in the islands.</p> <p>However, it is important to bear in mind that this ICIA appraisal deals only with the costs and duration of STL licences in Orkney, not the concept of STL licensing itself, which is a Scottish Government initiative enshrined in legislation.</p>
Do you need to consult?	No – consultation has already been carried out.
How does any existing data differ between islands?	The consultation responses suggest that there is little difference between the islands, as they all experience the same shorter season, higher costs and difficulties in attracting tradespeople.
Are there any existing design features or mitigations in place?	One way to mitigate the cost impact on islands providers is to reduce the cost of the licence application fee. This forms part of the current proposals.
STEP 3 - Consultation	Responses
Who do you need to consult with?	Consultation complete.
How will you carry out your consultation and in what timescales?	Consultation complete.

**Island Communities Impact Assessment
STL Licensing Scheme Fees and Duration**

What questions will you ask when considering how to address island realities?	Consultation complete.
What information has already been gathered through consultations and what concerns have been raised previously by island communities?	As per responses to STEP 2 – Gather your data and identify your stakeholders.
Is your consultation robust and meaningful and sufficient to comply with the Section 7 duty?	Yes. All islands-based providers had the opportunity to respond to the consultation, and many did so, either individually or through umbrella organisations.
STEP 4 - Assessment	Responses
Does your assessment identify any unique impacts on island communities?	Yes, as set out in STEP 1 above.
Does your assessment identify any potential barriers or wider impacts?	Yes, as set out in STEP 1 above.
How will you address these?	<p>By proposing to introduce lower licence application fees for STL properties based in the islands, to help alleviate the additional costs / lower incomes experienced by owners of these properties.</p> <p>It is important to acknowledge that, while the Council has the ability to adjust its application fee to help address the impact of the STL licensing scheme on island communities, the licence fee itself is not the sole or main cause of the unique impact of this scheme on island communities.</p> <p>The mandatory conditions introduced by the legislation, together with the timescale for compliance, have created a situation where island hosts are concerned about their ability to comply with the licensing scheme full stop. Concerns have been expressed about the lack of availability of tradespeople to carry out the necessary checks and PAT testing in time to allow an application to be made by the deadline.</p> <p>During the consultation, there were calls from some respondents to allow isles-based applicants to submit applications by the deadline but with adherence to certain mandatory conditions being “in process” rather than fully complete. There were also calls for the Council to provide more assistance at the supply chain stage,</p>

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for example by supporting apprenticeships.

While these requests may have some merit, they are outwith the sole remit of the Licensing Committee and would require input from a wider range of Council services such as Economic Development.

You must now determine whether in your opinion your policy, strategy or service is likely to have an effect on an island community, which is significantly different from its effect on other communities (including other island communities).

If your answer is **NO** to the above question, a full ICIA will NOT be required and **you can proceed to Step**

SIX. If the answer is **YES**, an ICIA must be prepared and **you should proceed to Step FIVE**.

To form your opinion, the following questions should be considered:

- Does the evidence show different circumstances or different expectations or needs, or different experiences or outcomes (such as different levels of satisfaction, or different rates of participation)?
- Are these different effects likely?
- Are these effects significantly different?
- Could the effect amount to a disadvantage for an island community compared to the Scottish mainland or between island groups?

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STEP 5 – Preparing your ICIA	Responses
In Step Five, you should describe the likely significantly different effect of the policy, strategy or service:	<p>Applying the same fees across the board in Orkney could have a significantly different overall effect on islands-based properties, as it would represent a bigger proportion of income.</p> <p>The consultation responses suggest that the lower incomes are due to the fact that the prices that can be charged for properties are lower, operating costs are higher and the season is shorter in the isles.</p>
Assess the extent to which you consider that the policy, strategy or service can be developed or delivered in such a manner as to improve or mitigate, for island communities, the outcomes resulting from it.	<p>The Council could introduce lower fees for STL properties based in the islands. The current proposals take this on board.</p> <p>The consultation responses did not offer any clear steer on whether amending the duration of licences would help to address the issues. There are no proposals to change the duration of licences from 3 years.</p>
Consider alternative delivery mechanisms and whether further consultation is required.	<p>There are no alternative delivery mechanisms apart from reducing the fees, as the Council is obliged to introduce a STL licensing scheme and is bound to apply the mandatory conditions.</p> <p>The opportunity to pay licence fees in instalments rather than as a lump sum has been considered but discounted due to the difficulty of administering such a system.</p>
Describe how these alternative delivery mechanisms will improve or mitigate outcomes for island communities.	Lowering the licence application fees will help to compensate for the higher costs of complying with the licensing scheme, and the lower net profit, experienced by islands hosts.
Identify resources required to improve or mitigate outcomes for island communities.	All fee income from the STL licensing scheme will go towards the cost of operating the scheme. The fees will be pooled against costs, so no additional resources are required.
STEP 6 - Making adjustments to your work	Responses
Should delivery mechanisms/mitigations vary in different communities?	No, the mitigation in the form of reduced fees would apply across all islands (as defined in STEP 1).

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Do you need to consult with island communities in respect of mechanisms or mitigations?	No – consultation has already been carried out.
Have island circumstances been factored into the evaluation process?	Yes.
Have any island-specific indicators/targets been identified that require monitoring?	No.
How will outcomes be measured on the islands?	<p>A register of STL licences issued will be maintained by the Council, which will allow the Council to ascertain how many STL licences are held by islands hosts. It is also anticipated that islands hosts will continue to liaise with officers in the licensing team if they are experiencing problems related to failure to engage tradespeople in time for applications to be made, etc.</p> <p>This will enable the Council to look more widely at whether other measures, outwith the STL licensing scheme, may require to be investigated (such as working in conjunction with Economic Development).</p>
How has the policy, strategy or service affected island communities?	As the licensing scheme is not yet operational, it has not yet affected island communities, other than giving rise to concern about its potential impact.
How will lessons learned in this ICIA inform future policy making and service delivery?	N/A, in light of the fact that this ICIA relates to a specific set of legal obligations that the Council is required to comply with, namely, the introduction of a STL licensing scheme. Each future policy and service delivery will be considered on its own merits with regard to impacts on island communities.

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STEP 7 - Publishing your ICIA	Responses
Have you presented your ICIA in an Easy Read format?	Yes.
Does it need to be presented in Gaelic or any other language?	No.
Where will you publish your ICIA and will relevant stakeholders be able to easily access it?	On the Council's website.
Who will sign-off your final ICIA and why?	The Head of Legal and Governance.

ICIA completed by:	Sheila Tulloch.
Position:	Service Manager (Legal Services).
Signature:	
Date complete:	30/08/2022.

ICIA approved by:	Gavin Mitchell.
Position:	Head of Legal and Governance.
Signature:	
Date approved:	30/08/2022.