

Appendix 1

South Lanarkshire Council

Short Term Lets Licensing Scheme

Civic Government (Scotland) Act 1982

Statement of Licensing Policy

**This statement will be kept under review and will be
subject to ongoing consultation**

October 2022

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Appendix 1 Conditions

1. Introduction

- 1.1 South Lanarkshire Council is the licensing authority for the area of South Lanarkshire for the purposes of the Civic Government (Scotland) Act 1982 and is responsible for regulating and administering licences in terms of the Act in the local authority area.
- 1.2 The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the “Order”) was approved by the Scottish Parliament on 19 January 2022 and came into force on 1 March 2022. The Order requires local authorities to introduce a Short Term Lets Licensing Scheme by 1 October 2022.
- 1.3 The aims of the licensing scheme are:
 - to ensure all short-term lets are safe;
 - to facilitate licensing authorities in knowing and understanding what is happening in their area; and
 - to assist with handling complaints and address issues faced by neighbours effectively.
- 1.4 Guidance has been issued by the Scottish Government which is designed to help licensing authorities implement a licensing scheme in their area which is:
 - in line with the Scottish Government's overall policy aims for the licensing of short-term lets;
 - efficient, effective, and proportionate; and
 - customised to the licensing authority's local policies and the needs and circumstances of the licensing authority's local area.
- 1.5 This policy outlines how South Lanarkshire Council as licensing authority will oversee a licensing scheme and administer applications within the area.

2. Consultation and links to other policies, strategies, and legislation

- 2.1 In preparing the policy, the council has considered the guidance issued by the Scottish Government and consulted with stakeholders. The terms of the policy may be further updated in response to future public consultation.
- 2.2 It should be recognised that this policy covers a variety of activities and premises and cannot provide for every eventuality
- 2.3 This policy does not seek to prevent any individual applying under the terms of the Act and to have such an application considered on its individual merits. It does not seek to override the right of any person to make representations on an application or to seek a review of a licence where provision has been made for this in the Act.

3. Definitions and Licence Types

3.1 Definitions

A “**short-term let**” is defined in the order as the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met—

- (a) the guest does not use the accommodation as their only or principal home,

(b) the short-term let is entered into for commercial consideration,

(c) the guest is not—

(i) an immediate family member of the host,

(ii) sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or

(iii) an owner or part-owner of the accommodation,

(d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,

(e) the accommodation is not excluded accommodation, and

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

"accommodation" includes the whole or any part of a premises,

"commercial consideration" includes—

(a) money

(b) a benefit in kind (such as provision of a service, or reciprocal use of accommodation),

"excluded accommodation" means accommodation described in paragraph 1 of schedule 1,

"excluded tenancy" means a tenancy described in paragraph 2 of schedule 1,

"guest" means a person who occupies accommodation under a short-term let,

"host" means a person who is the owner, tenant, or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a short-term let,

An immediate family member of the host is—

(a) someone who is married to, in a civil partnership or living together as though they were married to the host

(b) a parent, grandparent, child, grandchild or sibling of the host or their partner

(c) a partner of the host's parent, grandparent, child, grandchild, or sibling

Note

two people are to be regarded as siblings if they have at least one parent in common,

a person's stepchild is to be regarded as the person's child,

a person ("C") is to be regarded as the child of another person ("D") if C is being or has been treated by D as D's child.

Excluded accommodation means accommodation which is, or is part of—

- (a) an aparthotel,
- (b) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act,
- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college, or training centre,
- (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
 - (i) a refuge,
 - (j) student accommodation,
 - (k) accommodation which otherwise requires a licence for use for hire for overnight stays,
 - (l) accommodation which is provided by the guest,
 - (m) accommodation which is capable, without modification, of transporting guests to another location,
 - (n) a bothy, or
 - (o) accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

An **excluded tenancy** means a tenancy which falls within any of the following definitions—

- (a) a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984)
- (b) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988),

- (c) a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988),
- (d) a tenancy of a croft (within the meaning of section 3 of the Crofters (Scotland) Act 1993),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the Crofters (Scotland) Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001),
- (g) a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001),
- (h) a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003),
- (i) a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003),
- (j) a modern limited duration tenancy (within the meaning of section 5A of the Agricultural Holdings (Scotland) Act 2003),
- (k) a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003),
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003),
- (m) a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016), or
- (n) a student residential tenancy.

“unique licence number” means a unique number which—

- (a) is assigned to each application or licence, and
- (b) contains a number or letters which—
 - (i) identifies the licensing authority, and
 - (ii) is used in every licence number assigned by the licensing authority.

3.2 **Types of licence**

There are four types of licence:-

- a) a licence for home letting;
- b) a licence for home sharing
- c) a licence for home sharing and home letting; or
- d) a licence for secondary letting.

The different licence types are defined as follows:-

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder’s only or principal home.

- 3.3 Potential applicants should take their own independent legal advice on whether or not they require a Short Term Let licence.

4. **Timescales**

- 4.1 From 1 October 2022 new hosts and operators will need to have a licence. This means that hosts or operators who were not using their premises to provide short-term lets before 1 October 2022, can advertise but cannot take bookings or receive guests until a licence has been obtained.
- 4.2 Existing hosts/operators have until 1 April 2023 to apply for a licence if the accommodation the licence is for, was used as a short-term let before 1 October 2022. During this period they can continue to operate without a licence (by continuing to take bookings and receiving guests) unless the licence application has been determined, and the application rejected. Existing hosts/operators should be able to provide evidence as part of the application process of use of the property for short-term lets prior to 1 October 2022, for example through evidence of bookings and payments.
- 4.3 From 1 April 2023, existing hosts can only continue to operate if they have either submitted an application for a licence on or before 1 April 2023 that has not yet been determined or been granted a short-term let licence.
- 4.4 All short-term lets in Scotland need to be licensed by 1 July 2024.

5. Planning Permission

- 5.1 In terms of the Town and Country Planning (Short Term Let Control Areas) (Scotland) Regulations 2021 the Council as planning authority can establish short term let control areas. This is intended to help planning authorities manage high concentrations of short term lets where it affects the availability of residential housing or the character of a neighbourhood. In such areas planning permission will always be required for the use of a property as a short term let. At the moment there are no short term let control areas in South Lanarkshire, but that position will remain under review by the planning authority.
- 5.2 Outside of a control area the introduction of a short term let within a dwelling house may involve a material change of use requiring planning permission. This is determined on a case by case basis. Hosts and Operators should engage with the Council's Planning Service before submitting an application for a licence to find out if planning permission is needed. This may involve the submission of an application for a certificate of lawfulness. If required the planning permission or certificate of lawfulness must be provided with your application.

6. Fees

- 6.1 Licensing authorities are required to charge fees in relation to the processing and determination of license applications and associated matters. They must ensure that the fees are sufficient to cover the expenses of administering the process and must also review the fees periodically.

The current fees for the three year duration of the licence are as follows:-

Type of licence	Application/Renewal Fee (occupancy of 1 or 2 persons) £	Application/Renewal Fee (occupancy of 3 to 6 persons) £	Application/Renewal Fee (occupancy of 7 to 10 persons) £	Application/Renewal Fee (occupancy of 11 persons and above) £
Secondary Letting	300	450	550	750
Home Letting	250	375	450	625
Home Sharing	250	375	450	625
Home Letting and Home Sharing	250	375	450	625

Temporary Licence – as above

Variation – as above

Material change - £39

Duplicate Licence – £25

Inspection Fee – To be agreed

7. Application and Notification Process

- 7.1 All applicants must complete an online application form and must apply for a separate licence for each premises. Accommodation that is on a single premises requires only one licence. The relevant documents must be provided and the fees paid before the application can be accepted.
- 7.2 The application can be made by a person other than the owner of the premises but, if this is the case, the applicant must provide consent from the owner.
- 7.3 The applicant is required to provide a declaration to the Licensing Authority that they can comply with the mandatory and additional conditions attached to the licence.
- 7.4 Applicants have a statutory obligation to display a notice of application stating that an application for a short term let licence has been made. The notice must be displayed suitably protected from the elements on or near to the property in a position where it can be easily read by members of the public 24 hours a day for a period of 21 days starting on the date on which the application is lodged with the Council to give people a chance to object to the application. Applicants are required to submit a certificate confirming that they have complied with this requirement as soon as possible after the twenty one days has expired
- 7.5 The licensing authority will give notice of each licence application it receives to:-
- the Chief Constable of Police Scotland
 - Scottish Fire and Rescue Service
 - South Lanarkshire Council Planning Department
 - South Lanarkshire Council Building Standards Service
 - South Lanarkshire Council Environmental Health Service
 - South Lanarkshire Council Housing and Technical Resources
 - Elected Members for the area
- 7.6 If an applicant has had a licence application refused by the licensing authority they cannot submit a further application within one year of the date of refusal unless there has been a material change in circumstances. Whether or not there has been a material change is to be determined by the licensing authority.
- 7.7 Following a licence being granted details will be recorded in the public register which is available on the Council's web pages.

8. Objections and representations

- 8.1 Objections and representations can be lodged within 28 days from the date when the application was received by the licensing authority or the date when the Site Notice was put up, whichever is the later.
- 8.2 Anyone can submit an object or a representation. Objections or representations must specify the grounds for the objection or the details of the representation and must be in writing (e-mail is acceptable) and must specify the name and address of the person making it and be signed by them or on their behalf.
- 8.3 The objection or representation will be copied to the applicant for comment.
- 8.4 Late objections or representations may be considered but only if the licensing authority considers that there is sufficient reason why the objection or representation was not made in time.

9. Application Checks

- 9.1 The licensing authority will consider each application on its own merits.
- 9.2 The licensing authority will seek additional information from the applicant as part of the application process and will consider all relevant information including information from the statutory consultees, Police Scotland and Scottish Fire and Rescue Service, and will visit premises where required
- 9.3 Every individual named on the application will be subject to a fit and proper person test.

10. Licence duration and renewal

- 10.1 The licensing authority may grant a licence for a period of up to 3 years, after which it must be renewed. The duration and expiry date will be specified on the licence together with the unique licence number. The duration applies from the date on which the licence comes into force.
- 10.2 Where an application is made to renew a licence, the licence will continue to have effect until such a time as a decision is made on the renewal. The licensing authority intends to grant a renewal for a period of up to 3 years.
- 10.3 During the period of a licence the licensing authority may require sight of relevant documentation or make visits in order to ensure compliance.

11. Conditions attaching to licences

- 11.1 The Order sets out a number of mandatory licence conditions which apply to all short terms lets. A list of these conditions can be found at Appendix 1.
- 11.2 In addition to the mandatory conditions a licensing authority may impose additional conditions. There are currently no additional conditions imposed by the licensing authority and this will be kept under review.

12 Temporary Exemptions

- 12.1 In terms of the Order the licensing authority may grant temporary exemptions. The licensing authority does not intend to do so. This position will be reviewed as part of the review of the policy, at least every three years.

13 Temporary Licences

- 13.1 The licensing authority has the power to grant temporary licences for a period of up to 6 weeks. The licensing authority will consult with Police Scotland and Scottish Fire and Rescue Service.
- 13.2 Any host or operator granted a temporary licence will be expected to adhere to all mandatory and additional conditions.
- 13.3 A temporary licence is not capable of being renewed but, where the holder of or the applicant for a temporary licence has also made an application for a licence in respect of the same activity, the temporary licence, if granted, shall continue to have effect until the full licence application is determined.

14. Occupancy Capacity

- 14.1 It is a condition of all licences that the licence holder must ensure that the number of guests does not exceed the number specified on the licence.

15. Variation of licence

- 15.1 At any time the licensing authority, whether or not upon an application made to them by the holder of the licence, may vary the terms on any ground it thinks fit. There is no requirement to advertise the variation but the licensing authority will consult with the statutory consultees detailed at paragraph 7.5 above.

16. Complaints

- 16.1 Complaints from guests should be raised with the host or operator initially. If the matter is unresolved or of sufficient concern it may be raised with the licensing authority.
- 16.2 A complaint must be relevant to matters which the council can consider. Complaints may relate to:-
- Whether the host or operator is a fit and proper person
 - Public order, public nuisance, or public safety
 - Breach of a licence condition
- 16.2 The licensing authority will seek to resolve complaints through engagement with the host or operator. If this is not successful then enforcement may be considered in terms of paragraphs 17 and 18 below.

17. Compliance and Enforcement

- 17.1 On or after 1 October 2022, it is a criminal offence for any person to continue to operate after their licence application has been determined and refused.
- 17.2 All short-term lets in Scotland will need to be licensed by 1 July 2024. On or after 1 July 2024 operating without a licence is unlawful in all cases.
- 17.3 Existing hosts must cease operating within 28 days if their licence application is refused.
- 17.4 Operating without a licence is a criminal offence.
- 17.5 It is an offence for an applicant to provide false or misleading information on the licence application form.
- 17.6 Enforcement on any matter which is within the remit of the licensing authority will be carried out in accordance with paragraph 18 below and the South Lanarkshire Enforcement Concordat for licences in terms of the Civic Government (Scotland) Act 1982 (as amended) Enforcement Concordat.

18. Review of licence

- 18.1 A licence may be reviewed at any time, whether a complaint has been received or not. A review will include consideration being given to the suspension, revocation, or variation of a licence or alternatively to the issue of a written warning.
- 18.2 The licensing authority may order suspension or revocation where:-

- the holder of the licence or, where the holder is not a natural person, any director of it or partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
- the activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of the licence under paragraph 5(3) above;
- the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety;
- a condition of the licence has been contravened

18.3 The licensing authority may suspend a licence immediately if it is of the opinion that the carrying on of the activity to which the licence relates is causing or likely to cause a serious threat to public order or public safety. This may be on the receipt of information from Police Scotland or Scottish Fire and Rescue Service. Following immediate suspension the licence holder will be given an opportunity to attend a hearing before the Licensing Committee within 6 weeks in order to determine further action, that is whether to suspend further, revoke or take no further action.

19. Decision Making and Delegation of licensing functions

- 19.1 It is the council's intention to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.
- 19.2 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at ensuring timely, efficient and cost effective decision making. The scheme sets out decisions which may be made by the Licensing and Registration Manager or his/her staff
- 19.3 The licensing authority will determine each application on its own merits.
- 19.4 Where applicants have received a valid objection the application will be considered by the local authority Licensing Committee at a hearing to consider and determine the application and to which the applicant and the objector will be invited.
- 19.5 The grounds for refusal of a licence are set out in Paragraph 5(3) of Schedule 1 to the Civic Government (Scotland) Act 1982, details of which can be found in appendix 2.

20. Right of Appeal

- 20.1 The applicant has the right of appeal to the Sheriff Court. The applicant should appeal by way of summary application within 28 days from the date of the decision. The applicant has a right to ask for a Statement of Reasons within 21 days of the decision. The Licensing Authority must issue the Statement of Reasons within 10 days from receipt of the request for the Statement of Reasons.

Appendix 1

Mandatory licence conditions

Agents

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

Type of licence

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

Fire safety

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

(a) fire or suspected fire, and

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

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988⁽¹⁾.

Gas safety

5. Where the premises has a gas supply—

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

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

Electrical safety

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

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

(i) a reasonable state of repair, and

(ii) proper and safe working order,

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

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

(d)arrange for a competent person to—

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

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

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

Water safety: private water supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017(3).

Water safety: legionella

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

Safety & repair standards

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

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

Maximum Occupancy

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

Information to be displayed

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

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

(b)fire, gas, and electrical safety information,

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

(d)a copy of the gas safety report,

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

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

Planning Permission

13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997⁽⁴⁾ (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

Listings

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

- (a) the licence number, and
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008⁽⁵⁾.

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

Insurance

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

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

Payment of fees

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

False or misleading information

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

Interpretation

18. In this schedule—

“Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting, and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

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

“gas safety report” means a report containing the following information—

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

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

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

(e) any safety defect identified,

(f) any remedial action taken,

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

(i) the effectiveness of any flue,

(ii) the supply of combustion air,

(iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,

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

(v) its operation so as to ensure its safe functioning,

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

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

“holder of the licence” means any person to whom a short-term let licence has been granted or jointly granted,

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home,

“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder’s only or principal home,

“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

“short-term let licence” means a licence for a short-term let, and

“type of short-term let” means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

Appendix 2

Statutory Grounds for refusal of an application

Paragraph 5(3) of Schedule 1 to the Civic Government (Scotland) Act 1982

A licensing authority shall refuse an application to grant or renew a licence if, in their opinion

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either
 - (i) for the time being disqualified under section 7(6) of this Act, or
 - (ii) not a fit and proper person to be the holder of the licence;
- (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to
 - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
- (d) there is other good reason for refusing the application; and otherwise shall grant the application.