

	
<p><b>LICENSING OF SHORT TERM LETS</b></p> <p><b>Report by Interim Chief Corporate Governance Officer</b></p>	
<p><b>SCOTTISH BORDERS COUNCIL</b></p> <p><b>24 November 2022</b></p>	

## **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to advise Members of the responses received to the statutory consultation on the terms of the draft short term lets licensing policy which the Council requires to implement following the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 1982.**
- 1.2 At its meeting on 29 September 2022, Council agreed that a 3 week statutory consultation be carried out on the terms of the draft policy.**
- 1.3 The statutory consultation was carried out between 5 October 2022 and 30 October 2022. The responses received during the consultation are detailed at Appendix 1.**
- 1.4 That Members consider the proposed revisals to the draft policy following consideration of the responses received as highlighted in red on the draft policy as detailed at Appendix 2.**

## **2 RECOMMENDATION**

- 2.1 It is recommended that Council**
  - (a) note the terms of the responses received and thereafter approve the amendments to the draft policy as detailed at Appendix 2**
  - (b) thereafter instruct the Interim Chief Corporate Governance Officer to adopt the amended draft policy with immediate effect.**

### **3 BACKGROUND**

- 3.1 On 19 January 2022, the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 ("the Order") was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 ("the Act")
- 3.2 The Order introduces a new mandatory licensing system for short term lets which local authorities are required to establish by 1 October 2022.
- 3.3 Prior to the introduction of the legislation, there was no requirement to licence short term lets and, therefore, local authorities did not have the ability to regulate these types of premises.
- 3.4 The licensing scheme was brought in by the Scottish Government with the aim to ensure that short term lets are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively. It also enables local authorities to ensure the people providing short term lets are suitable. The legislation aims to make sure that the economic tourism and benefits from short term lets are balanced with the needs of the local communities.
- 3.5 The short term let licensing scheme will cover a wide range of residential accommodation including, but not exclusively, self-catered properties, B and B's, guest houses, glamping and yurts.
- 3.6 At the meeting on 29 September 2022 Council agreed that a 3 week statutory consultation be carried out on the terms of the Council's proposed Licensing Policy Statement. The consultation was carried out between 5 October 2022 and 30 October 2022. A total of 63 responses were received as detailed at Appendix 1.
- 3.7 The responses received were largely not in favour of a licensing scheme being introduced with only a few responders recognising that this is a mandatory licensing requirement introduced by the Scottish Government. Similarly, the majority of responders felt that the proposed licensing fee structure as set out in paragraph 17 of the draft policy was excessive. Despite these responses, the legislation allows licensing authorities to set reasonable fees to cover their administrative costs and as officers consider the proposed fees to be reasonable and in line with those charged by other licensing authorities it is not proposed to revise the proposed fee structure.
- 3.8 In addition, a number of responders commented that the proposed additional conditions as set in Appendix 3 of the draft policy were unduly onerous and burdensome. In particular, a number of responders raised concerns about the requirement to fit carpets to living rooms, bedrooms and any hallways with several of these highlighting that their properties were fitted with laminate or vinyl flooring which they deemed to be appropriate. The requirement to fit carpets would result in them having to incur additional expense which they felt was unnecessary. In addition, some responders raised the possibility of cleaning and allergy concerns with regard to the carpeting requirement. As a result of these concerns officers have reconsidered this proposed additional condition and in line with some other licensing authorities it is now proposed

that the condition only be applied following on from concerns regarding noise being investigated. The proposed amendment to this effect is as set out in the revised draft policy as detailed at Appendix 2. The other suggested changes to the additional conditions are proposed in order to make the language used consistent and less onerous.

#### **4 NEXT STEPS**

- 4.1 The adoption of the draft policy will enable officers to take the necessary steps to ensure that the Council's short term lets licensing regime becomes active immediately.

#### **5 IMPLICATIONS**

##### **5.1 Financial**

There are no costs attached to any of the recommendations contained in this report. There are no costs associated with the publication of the draft Short Term Lets Licensing Policy as this will be published online. The proposed Licensing fee structure will be reflected in the Council's fees and charges schedule and any financial implications arising therefrom will be reflected through the monitoring process for the remainder of the financial year 2022/2023 and the financial planning process for 2023/2024. It is estimated that the new short term lets requirement will result in approximately 1000 applications being received and the income generated through the proposed fee structure will be applied to assist with the costs of providing this service.

##### **5.2 Risk and Mitigation**

The carrying out of the consultation and the consideration of the responses received will allow Council to determine the final content of the Short Term Lets Licensing Policy.

##### **5.3 IIA**

It is anticipated that there will be no adverse impact due to race, disability, gender, age, sexual orientation or religious belief arising from the proposals in this report.

##### **5.4 Sustainable Development Goals**

There are no sustainable development goals arising from the proposals contained in this report.

##### **5.5 Climate Change**

There are no climate change impacts from the proposals contained in this report.

##### **5.6 Rural Proofing**

There are no rural proofing issues arising from the proposals contained in this report.

## 5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

## 5.8 Changes to Scheme of Administration or Scheme of Delegation

No change to either the Scheme of Administration or the Scheme of Delegation as a result of the recommendations in this report.

## 6. CONSULTATION

The Chief Financial Officer, the Chief Legal Officer ( Monitoring Officer), the Chief Officer Audit and Risk, the Chief Human Resources Officer and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

### Approved by

**Nuala McKinlay**  
**Interim Chief Corporate Governance Officer**

### Author(s)

Name	Designation and Contact Number
<b>Ron Kirk</b>	<b>Managing Solicitor, Property and Licensing, Tel No. 01835 826764</b>

**Background Papers:** None

**Previous Minute Reference:** 29 September 2022

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Contact us at, Ron Kirk, Managing Solicitor, Property & Licensing, Tel. No. 01835 826764. Email: [ron.kirk@scotborders.gov.uk](mailto:ron.kirk@scotborders.gov.uk)