

Orkney Islands Council

Short-term Lets – Complaints

This document contains information available in the Civic Government (Scotland) Act 1982, the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and Guidance issued by the Scottish Government. It contains broad guidance and a pro-forma complaint form.

Handling complaints

Anybody can make a complaint to the Council about the way in which hosts and operators are operating their short-term lets. As a general principle, the Council will try to resolve a complaint through engagement with the host or operator before the Council decides to invoke more formal procedures.

In the first instance, guests, neighbours or anyone else having a concern about the way in which a short-term let is being operated should raise their concern with the host or operator, letting agency or platform. If they remain unsatisfied, or the issue is sufficiently grave, they may contact the Council's Short-term Lets Licensing Team by completing and submitting this document. They should also submit records of their communications with their host or operator, letting agency or platform about their complaint.

Assessing complaints

Some complaints may require enforcement action from the Council. Options for enforcement actions are outlined on pages 2 and 3 of this document.

Some complaints may not require enforcement action from the Council, for example:

- Where the Council determines that the complaint is frivolous or vexatious.
- The complaint relates to a matter which has already been investigated and the complaint was found to be unjustified.
- Action has already been taken or is in progress.
- The complaint relates to a matter which is outside the scope of the licensing scheme, for example about the quality of the stay.

Breach of licence conditions – Enforcement Notices

The 1982 Act provides the Council with powers to serve enforcement notices on holders of licences for short-term lets to require rectification of any breach of licence conditions. Licence conditions are included in information published by the Council on its website at <https://www.orkney.gov.uk/Service-Directory/L/short-term-lets.htm>. Where complaints, visits to premises, or other information, suggest that any licence condition has been breached or is likely to be breached, the Council can require a licence holder to take action to put it right. This will usually be done by serving an enforcement notice. An enforcement notice must specify, among other things, the matters constituting the breach or likely breach, so complaints about breach of licence conditions should contain as much information /

information as possible to help the Council determine whether an enforcement notice should be issued. The enforcement notice must also specify the action which the licence holder should take to rectify or prevent the breach and the date by which the action must be taken.

Possible suspension or revocation of licences

The 1982 Act provides the Council with powers to suspend or revoke a licence if, in its opinion:

(a)	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;
(b)	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) of Schedule 1 of the Act (details of these grounds of refusal are included in the Council's associated form for Objections/Representations to applications for short-term let licences);
(c)	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;
(d)	a condition of the licence has been contravened.

In considering whether to suspend or revoke a licence, the Council may:

(e)	have regard to:
	(i) any misconduct on the part of the holder of the licence, whether or not constituting a breach of any provision of Parts 1 or 2 or Schedule 1 of the 1982 Act, which in the opinion of the authority, has a bearing on his/her fitness to hold a licence;
	(ii) where the licence relates to an activity consisting of or including the use of premises, any misconduct on the part of persons frequenting or using the premises occurring there or any misconduct in the immediate vicinity of the premises which is attributable to those persons;
(f)	make such reasonable inquiries as they think fit and include the results of their inquiries in the matters to which they have regard in such consideration.

The Council may suspend or revoke a licence without serving an enforcement notice if the seriousness of the breach justifies urgent action.

Taking the information above into account, complaints should contain as much information as possible to help the Council determine whether to consider suspending or revoking a licence.

Enquiries about whether a property is licensed

The Council publishes a public register of properties which are licensed for short-term lets on its website at <https://www.orkney.gov.uk/Service-Directory/L/short-term-lets.htm>. The enquirer should check the Register, but if records of the property cannot be found or the enquirer cannot access the online information, they may contact the Council's Short-term Lets Licensing Team using the contact details in this document.

General

The Council will send a copy of any complaint to the licence holder.

After processing by Council officers, including communications with complainants and licence holders, and unless able to be resolved either through direct engagement with the host or operator or through an enforcement notice, complaints will be considered at a meeting of the Council's Licensing Committee.

The licence holder and anyone who has made a complaint will be given the opportunity to be heard at the meeting. The Council will give all parties at least 14 days' notice of the hearing date. The meeting will be held in public, so other members of the public can observe the proceedings. Anyone who has made a complaint will be invited to speak about their submissions and the applicant will be invited to state why their licence should not be suspended or revoked. Members of the Committee may follow up with questions before deciding what action to take.

The Council's Short-term Lets Licensing Team – Contact Details

- Email: shortletslicensing@orkney.gov.uk
- Post: Head of Legal and Governance, Council Offices, School Place, Kirkwall, Orkney KW15 1NY.
- Telephone: 01856 873535 extensions 2232 or 2229 (voicemail available).

Complaints Form

Please read the Council's Guidance on complaints above before completing this form.

Please complete this form in typewritten or block capital script, using black ink.

Details of person making complaint	
Name:	
Address including post code:	
Telephone numbers, landline and mobile (these will not be shared with the licence holder):	
Email address (this will not be shared with the licence holder):	
Details of premises	
Premises address including post code:	
Details of complaint	
Specify the ground(s) of complaint, including by reference to those listed as (a) to (e) above – provide details and submit supplementary A4 sheets if required:	
(a)	
(b)	
(c)	
(d)	

(e)	
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Signature:	
Name:	
Date:	