

**SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT FORFAR**

Court ref: FFR-B14-22

**RESPONSE**

to the

DETERMINATION OF SHERIFF PAUL BROWN

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC.

(SCOTLAND) ACT 2016 (the "2016 Act")

IN THE

INQUIRY INTO THE DEATH OF THOMAS OLIVER HILL

To: The Scottish Courts and Tribunals Service

1. **ORKNEY ISLANDS COUNCIL**, incorporated by and acting under the Local

Government (Scotland) Act 1973 as amended by the Local Government etc.

(Scotland) Act 1994, and having their principal offices at Council Offices,

Kirkwall, Orkney, KW15 1NY ("Orkney Islands Council") being a person to

whom a recommendation under section 26(1)(b) was addressed, responds as

follows.

2. Orkney Islands Council was not a participant in the inquiry but has an interest

in the inquiry as a licensing authority in terms of the Civic Government (Scotland)

Act 1982 ("the 1982 Act") and the Civic Government (Scotland) Act 1982

(Licensing of Short Term Lets) Order 2022 ("the 2022 Order"). Having considered

the recommendations made by the Sheriff in terms of Section 26(1)(b) of the 2016 Act Orkney Islands Council wishes to respond.

3. Orkney Islands Council has considered the Sheriff's recommendations that licensing authorities should consider making it a condition of any licence issued in terms of the 2022 Order that licence holders provide specific gas safety information to guests namely:-

3.1 . Written Advice and guidance on what to do in the event of a carbon monoxide alarm sounding.

3.2 . If there is a mobile gas cabinet heater in the accommodation, the manufacturer's instruction manual should be provided along with a warning that any such appliance should not be moved.

4. Orkney Islands Council has taken the following action in light of the recommendations.

5. The Council considered a Report at a sitting of its Licensing Committee on 7 December 2023; the Council noted that the existing mandatory conditions, to which all short-term let licences are subject, contain specific obligations in relation to gas safety, including a requirement for an annual gas safety inspection and that, if the requisite safety standard is not met, the property cannot be let until any remedial works have been carried out. There is also a requirement to display fire, gas and electrical safety information. These provisions do not go as far as the additional conditions recommended in the Sheriff's Determination.

6. The Council noted that Section 3B of the 1982 Act gives licensing authorities the power to determine further conditions to which licences are to be subject

("standard conditions") which the Scottish Government refers to in its Guidance as "additional conditions" because these are additional to the mandatory conditions.

7. At the meeting of the Licensing Committee on 7 December 2023 it was accepted that, in the interests of the safety of guests who stay in short-term let premises, there was a compelling case for the Council to include the conditions listed in the Sheriff's recommendations as additional standard conditions in licences that the Council henceforth issues for short-term lets.

On 7 December 2023, the Orkney Islands Council Licensing Committee Council therefore decided:

A. That the Council henceforth make it an additional standard condition of any licence issued in terms of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 that licence holders provide specific gas safety information to guests, namely:

- (i) Written advice and guidance on what to do in the event of a carbon monoxide alarm sounding.
- (ii) If there is a mobile gas cabinet heater in the accommodation, the manufacturer's instruction manual should be provided along with a warning that any such appliance should not be moved.

B. That, in respect of existing licences issued in terms of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, the Council request licence holders to provide guests with the

information, referred to in paragraphs A(i) and A(ii) above, and advise licence holders that the provision of such information shall be a condition of the licence upon its renewal.

C. That the Corporate Director for Strategy, Performance and Business Solutions should, no later than 11 December 2023, write to the Scottish Courts and Tribunals Service advising that the above steps are being taken by the Council in response to the Sheriff's recommendations.

8. The Council respectfully submits the foregoing as its response in terms of Section 28 of the 2016 Act.

In respect whereof:

**Karen Greaves BEM**

**Corporate Director for Strategy, Performance and Business Solutions**