

**Local Government, Housing and Planning Committee:**

**Written Evidence from the Association of Scotland’s Self-Caterers (ASSC) – December 2021**

**Introduction**

The ASSC welcomes the opportunity to provide evidence to the Scottish Parliament’s Local Government, Housing and Planning Committee to help inform their scrutiny of the Scottish Government’s short-term let licensing regulations. This elaborates on the oral evidence we provided to the Committee on 7th December 2021.

Self-catering is hugely important to Scottish tourism in terms of jobs, revenue, and the world-class experiences we’re able to offer our guests. To be such an essential part of Scotland’s tourism mix is even more remarkable for our sector, which generates £867m per annum when we consider that most self-caterers operate small or micro businesses. Scotland’s professional self-caterers are diligent, conscientious, and considerate business people who are too often unfairly maligned. We do not, for example, ‘hollow out communities’, as some have claimed, but rather are part of local communities across Scotland and have been for many, many years. In fact:

* Self-catering properties have been a longstanding presence in communities for generations, especially in rural/remote communities, and provide an economic boost for local areas and enhance Scotland’s tourist accommodation offering.
* Figures show there are **17,794 self-catering units** on Non-Domestic Rates. These properties generate: **2.4 million visitor nights** per year; **£867m** total visitor spend; and support **23,979 FTE jobs**.[[1]](#footnote-1)
* Such self-catering properties are **legitimate, bona fide businesses** whose owners depend on the money generated for their livelihood – it is not a hobby or a way to supplement their income. This is entirely separate from the ‘homesharing’ concept, or those amateur operators who utilise online marketing platforms but are not subject to the same levels of existing regulation.

The ASSC is not averse to regulation; but we do challenge policies which will damage the livelihoods of our members and Scotland’s vital tourism industry. Overall, 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. It must also be remembered that professional operators are already regulated **so** the mandatory conditions are essentially duplication and therefore unnecessary.

**Any regulations pursued need to be underpinned by robust empirical data**. Unfortunately, there has been a tendency to focus on so-called ‘scraped data’ from Airbnb which can lead to misleading conclusions about the nature of the short-term letting landscape in Scotland.[[2]](#footnote-2) Further detail is available on this in **Annex 1**.

Overall, this one-size fits all, onerous and disproportionate licensing system will damage Scottish tourism and discriminates against small and micro businesses like self-catering and B&Bs, especially in rural and remote areas, and comes at the worst possible time for industry when Covid-19 remains an ongoing issue and when the sector is still in recovery mode.

**Recent Developments on Short-Term Let Regulation**

The Cabinet Secretary for Housing Shona Robison outlined changes to the Scottish Government’s proposed licensing regulations on 7th October 2021. We endorsed the decision to remove overprovision from the licensing regime, which was a duplication with planning policy. **This recognises that the government’s objective with the regulations was about ensuring health and safety across all short-term lets, not addressing housing issues**.

This recognition is vital for setting the parameters of this debate. We are concerned that the short-term let licensing regulations – which are intended to focus on health and safety – are still being discussed within the context of housing, a fact reflected in the evidence sessions of 7th and 14th December 2021. However, **licensing regulation deals with the safety of an activity, not housing**. Short-term let Planning Control Area legislation was passed by the Scottish Government in February 2021 and is solely related to the use of a property. They are two entirely separate pieces of legislation dealing with totally different issues. Neither piece of legislation will in any way ameliorate the issue of second homes. Nevertheless, there is no empirical data which demonstrates a link between short-term lets and the housing market; moreover, we know that there are five times as many empty homes in Scotland than self-catering units.At no point will this legislation tackle homelessness or depopulation as alleged by some MSPs.[[3]](#footnote-3)

Despite the positive change on overprovision, a number of important industry concerns remain following the changes from 7th October. Most notably, we are concerned about the disproportionate financial impact of licensing fees on small and micro tourism accommodation businesses who are still in survival mode due to the crippling effects of the pandemic. **Taken together, the licensing scheme proposals at national level and the planning control areas at a local council level[[4]](#footnote-4) is creating a perfect storm of uncertainty for small business**. In addition, outwith the concerns affecting industry, we believe that the resourcing impact on local authorities has not been fully considered by the Scottish Government.

The 2021 Business Regulatory Impact Assessment states that the Scottish Government is confident that the tourism sector will have recovered adequately by March 2023 but, as the new omicron variant is demonstrating, the impact of pandemic is ongoing. Policymakers should therefore take cognisance of these circumstances and support small businesses through this and minimise burden.

**The Licensing Order was withdrawn in February 2021 as it was widely recognised as unfit for purpose; however, in December 2021, the revised Order remains unfit for purpose.**

**Key Outstanding Issues for ASSC Members**

In addition to continuing our call for an **exemption for registered businesses**,the ASSC seeks further compromise on the following:

1. **Fees**: there should be a cap on fees, not a scaled approach or just further guidance passed to councils. This would mirror the Scottish Landlord Register.
2. **Renewals**: the process should operate on the assumption that a licensing application is renewed through self-certification, as is the case with the Scottish Landlord Register.
3. **Neighbourhood objections**: all neighbourhood concerns over short-term lets should go through the existing system through better enforcement of anti-social behaviour legislation, as well as the use of noise monitoring devices (which could be mandatory for those operating in tenemental properties).
4. **Inspections**: council officers should not be allowed to turn up unannounced at a tourism accommodation business, especially when guests are in, but seek an appointment with the owner to provide access.
5. **Additional conditions**: there should be an element of control over the additional conditions that local authorities could add into their licensing regime. Local councils should not be able to stipulate that they do not want short-term lets operating in tenemental properties, for instance, as this would be the return of overprovision powers via the back door.

**We stand ready to work with the Scottish Government, MSPs, the Committee, and relevant stakeholders to get the details of the legislation and guidance absolutely right. At this crucial stage of Covid recovery, we must work collaboratively to protect Scotland’s £867m self-catering industry and not burden small businesses who do so much to promote and enhance the country’s unique tourism offering and boost local economies.**

**Outstanding Concerns: Contents**

Our outstanding concerns are set out in more detail under the following headings:

* Level Playing Field / Discrimination Against Small Businesses
* Onerous / Burdensome vs Proportionate / Fair
* Uncertainty
* Fees
* Additional Conditions – Overprovision by the backdoor?
* Investment: Mortgage & Insurance Provision Implications
* Neighbour Objection
* The Booking Problem
* Licence Duration and Renewal
* Impact on Local Authorities
* Dismissal of Industry
* Antisocial Behaviour Legislation
* Competency and Other Issues
* The Solution: Exemption for Registered Accommodation
* Annexes

**Level Playing Field / Discrimination against small businesses**

The Scottish Government has concurred with industry that self-catering businesses and B&Bs have legal obligations to comply with existing health and safety legislation, with the then Minister Kevin Stewart responding stating that *“the principal component of our licensing scheme is a set of mandatory standards which apply to all short-term lets, and will help to protect the safety of guests and neighbours across Scotland.* ***Many hosts, including B&B operators, will already be following these standards as a matter of compliance with existing law or best practice****”*.[[5]](#footnote-5) Now that overprovision has been removed from the licensing scheme, it is clearer that the rationale behind its introduction is indeed basic health and safety.

**Contrary to assertions made, small accommodation businesses are already regulated**. For example, the Scottish Government signposts to existing compliance[[6]](#footnote-6) and information regarding non-domestic rates[[7]](#footnote-7), and local authorities such as Argyll & Bute Council also signpost to other legal compliance and best practice[[8]](#footnote-8). Compliance levels are evidenced in a recent survey that we ran across the small accommodation sector[[9]](#footnote-9). With that in mind, why does the Scottish Government’s 2021 Business Regulatory Impact Assessment[[10]](#footnote-10) continue to state that *“At present, short-term lets are unregulated”*? This is clearly not the case.

In a letter from the Cabinet Secretary for Social Justice, Housing and Local Government to this Committee on 7th October, Ms Robison outlined changes to the licensing scheme: *“We are reviewing the fire safety and electrical safety requirements to ensure that they do not go further than existing law.  We will review the guidance on how to evidence compliance with the stakeholder working group“*[[11]](#footnote-11).  **This is affirmation that there are already adequate safety requirements to cover legitimate businesses and that the Licensing Order mandatory conditions are essentially duplication and therefore unnecessary**.

In September 2020, the ASSC ran an online survey to assess levels of professionalism within the tourism accommodation sector and compliance with existing regulations[[12]](#footnote-12).

* **In just 72 hours, the ASSC gathered 1484 responses** from accommodation businesses across Scotland, which includes traditional self-catering, bed and breakfasts, guest houses and small hotels plus, agritourism businesses, caravans and shepherd’s huts and other glamping accommodation.
* On the whole, small tourism accommodation businesses across Scotland are operating at a professional level: **three quarters (74%) consider themselves to be professional operators**.
* **The professional standing on respondents is further justified as: 97% have public liability insurance; 67% are ASSC members; and 61% have their own website.**
* The majority of survey respondents (80%) operate self-catering businesses. Of the **1185 self-catering operators responded:**
* Almost three quarters (74%) consider themselves “professional operators”.
* 90% confirmed that their business meets the definition of a self-catering property as defined in The Council Tax (Dwellings and Part Residential Subjects) (Scotland) Regulations 1992. In addition, 84% pay non-domestic rates and let out their properties for more than 140 days per annum. 92% are occupied more than 70 days. These are both key indicators that they are operating as a business not just to generate additional income.
* 97% have public liability business insurance.
* Of the **338 B&B/Guest House operators responded**, 81% consider themselves to be professional operators and 80% state the accommodation business is their primary source of income.
* 45% are on the non-domestic rates roll while 54% pay council tax
* Of those that offer food, 90% can confirm that the business is registered and has been passed by the local authority’s Food Hygiene Information Scheme.
* 74% have a listing on VisitScotland
* 30% market their property through Airbnb amongst other platforms.

**If the rationale behind introducing licensing is compliance with basic health and safety, why are hotels, serviced accommodation, etc exempt? This exempt accommodation is not licenced on the basis on health and safety but on the sale of alcohol. Subsequently, larger businesses are facing less regulatory obligations, resulting in discrimination against small businesses.**

As background, the **Licensing (Scotland) Act 2005** [[13]](#footnote-13) regulates the sale of alcohol in Scotland and is built around the 5 Licensing Objectives, which all licensed premises are expected to aspire to: Preventing Crime and Disorder; Securing Public Safety; Preventing Public Nuisance; Protecting and Improving Public Health; and Protecting Children and Young Persons from Harm. **Any licence issued under the 2005 Act relates to licensing of alcohol**[[14]](#footnote-14). **No basic health and safety mandatory conditions apply.**

Another instance where proportionality would be lacking vis-à-vis hotels and self-catering under any licensing regime can be seen with licensing fees. The **Licensing (Fees) (Scotland) Regulations 2007**[[15]](#footnote-15) sets the fees in relation to applications for a premises licence. Fees are based on the rateable value of the premises to be licensed. In addition, there is an annual fee due each October.

* £200 in the case of premises not on the Valuation Roll
* £800 in the case of premises where rateable value of premises is up to £11,500
* Additional to the application cost is potential cost of employing a lawyer to secure the licence, which will also apply in this instance.

Examples:

* The Townhead, Dumfries & Galloway[[16]](#footnote-16): 8 bedroom £270 per annum
* Loch Melfort Hotel, Argyll & Bute[[17]](#footnote-17): 30 bedroom £500 per annum
* Arrochar Hotel, Argyll & Bute[[18]](#footnote-18): 75 bedrooms £900 per annum.

**Many hotel chains are now diversifying in to self-catering**[[19]](#footnote-19) due to market demand but these properties may be exempt from a licence. The guidance for hosts and operators states, *“[a] self-catering property in the grounds of a licensed hotel would also be excluded [from licensing].”*[[20]](#footnote-20) We require more clarification from the Scottish Government on this issue as there appears to be an iniquity, one which puts small independent businesses at a clear disadvantage and livelihoods at risk.

**Key Questions:**

1. Exempt accommodation is not licenced on the basis of health and safety. Subsequently larger businesses are facing less regulatory obligations, resulting in discrimination against small businesses. Would you concur?
2. If the impetus behind short-term let licensing is about basic health and safety, why are hotels and serviced accommodation etc exempt, when self-catering, B&Bs and some guest houses will have to comply?

We note that UKHospitality Scotland said in response to the announcement of revisions from October 2021*: “Today’s announcement from the Scottish Government on changes to the proposed licensing scheme for short term lets takes us a step closer to the introduction* ***of parity for all tourism accommodation providers in Scotland****. UKHospitality Scotland has consistently called for the introduction of licensing for short-term lets to achieve* ***a level playing field****. This is to ensure our members do not continue to be put at a financial and competitive disadvantaged by the expanding rental market."*[[21]](#footnote-21)

However, it is small tourist accommodation providers like self-catering who will be disadvantaged, not big hotel chains. Therefore, it is clear that there are two options available here:

1. **Legitimate businesses (registered accommodation) are added to the list of exemptions**; or
2. **All accommodation providers in Scotland are included, in order to reach the level playing field and parity for all tourism accommodation providers.**

**Onerous / Burdensome vs Proportionate / Fair**

In September 2021, the ASSC ran a survey to assess the views of self-caterers on the Scottish Government’s proposals. From 668 responses in 72 hours:

* 88% of the sector believe the legislation will be onerous, 92% believe it will be burdensome and 87% do not believe it to be proportionate or fair.
* If the Scottish Government introduce licensing as drafted, **55% of respondents would consider removing the property from holiday letting**, 31% of whom would leave them for use by family and friends (second homes).
* 19% would sell the property, but 72% state that these properties would not become affordable homes[[22]](#footnote-22).

**The Scottish Government’s proposals, as drafted, remain hugely onerous, burdensome and they are not proportionate for small businesses. That is what small tourism accommodation businesses are saying the length and breadth of Scotland. This has not been mitigated by the revisions to the scheme.**

**Compliance obligations with current legislation for the self-catering sector are already costly** – please see **Annex 2 and 3** for details on the existing levels of regulation. The suggestion that a further layer of authorisation including application (every three years), inspection and monitoring costs incurred by a licensing scheme – possibly requiring the advice of a licensing lawyer – with the added complication of possible neighbour objection (often on vexatious grounds), will not be additionally onerous is incorrect.

**Any fee that is added to the existing cost of doing business will be untenable for small businesses**, especially in light of the global pandemic, with huge increases in energy prices, services and consumables. For legitimate businesses that already pay significant costs to comply with existing legislation, adding even a ‘small’ fee would be a significant financial burden.

All of this will be *before* we consider the impact of the Planning Control Area Regulations which are being taken forward by City of Edinburgh Council (while also under active consideration by other local authorities like Highland and Fife Council).

**Key Questions**

* On what grounds do you consider this legislation to not be onerous or burdensome for bone fide legitimate businesses?
* How can the Scottish Government evidence that the proposals will not be onerous for those who provide short-term let accommodation, or make sure that this will be the outcome?
* On what grounds is licensing required, and why registration is not deemed to be adequate for the activity, when Private Landlords are registered?

**Uncertainty**

**Fees**

* The industry still has no clarity regarding the fees associated with a licence which is causing real anxiety for our members. SOLAR have contested the June 2020 BRIA and suggested that if full cost recovery applies (which it must, even if not initially but eventually), the fees would be more like **£1,500 to £2,000**, which would be crippling to small businesses.[[23]](#footnote-23)
* Such fees would also result in disadvantaging small business against larger hospitality operators, whose fees are based on Rateable Value. This is directly in opposition to UKHospitality’s call for a ‘level playing field’ and ‘parity’ across all accommodation providers.
* Supplementary Guidance for Local Authorities states that licensing authorities should issue one of two types of licence for a premises: a) home sharing and home letting; or b) secondary letting. This is based on *“Evidence gathered during the two public consultations in 2019 and 2020 and independent research on the impact of short-term lets on communities in 2019 confirmed that secondary letting has much more of an impact in terms of loss of community, noise and anti-social behaviour and reduced availability of housing****. Secondary letting is widely believed to increase the cost of housing for locals in hotspot areas****”*[[24]](#footnote-24)*.* The ASSC attests that this guidance undermines the Scottish Government policy intention.
* The ASSC have been engaging some local authorities on the issue of short-term let regulation. At a meeting in October 2021, East Lothian Council expressed concern about the designation of fees. Despite concerns from local councils during the 2020 and 2021 public consultations, many questions remain: will a fee structure require specific designations: a house / train / upturned boat / caravan in a tree / glamping pod (what is the definition?) / castle? How do you value each type of short-term lets in terms of a fee structure? How will that fee structure be consistent across 32 local authorities?
* Supplementary Guidance for Local Authorities also states that *“Longer licence periods would provide hosts and operators with certainty for a longer period, in respect of accepting bookings. However, licensing authorities should bear in mind that* ***longer licence periods could reduce their revenue from renewal application fees*** *and may be more compatible with a subscription model for charging fees”[[25]](#footnote-25)*. This suggests that local authorities could interpret this licensing scheme as a revenue generation scheme rather than just on a cost recovery basis.
* To further quote this guidance, *“Licensing authorities can 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 relating to the premises which is not frivolous or vexatious. (Note that the Scottish Fire and Rescue Service is the enforcement body for fire regulations more generally.)*”[[26]](#footnote-26) How will a local authority deem a complaint to be “not frivolous or vexatious”? **It is worth noting that the Supplementary Guidance for Local Authorities was not part of the most recent public consultation.**
* Would it be proportionate to charge a two-bedroomed apartment the same as a twenty-bedroomed shooting lodge? It is the ASSC’s position that legitimate businesses that already comply with H&S legislation should not be charged a fee at all, but regardless, if it is about checking basic health and safety standards, there should be no scalability in fees, or it might be considered to be revenue generation rather than cost recovery for local authorities (see point above).

**Key Questions**

(a) Have the Scottish Government taken cognisance of the concerns expressed by SOLAR and several local authorities on licensing fees?

(b) What is the rationale behind scaled fees if it is on the grounds of checking basic health and safety?

(d) Can the Scottish Government guarantee that local authorities will not use this as a revenue generation channel, rather than on a cost recovery basis?

**Additional Conditions / Overprovision**

### On 7th October 2021, the Cabinet Secretary for Housing wrote to theScottish Government’s Local Government, Housing and Planning Committee[[27]](#footnote-27) setting out changes to their licensing legislation and guidance. The changes included **removing overprovision powers**. She added: *“Our licensing scheme proposals deliver national consistency on safety standards, and autonomy for local authorities to add further conditions in response to local needs and concerns”.*[[28]](#footnote-28)

* We note that according to the previous iteration of SupplementaryGuidance for Local Authorities, “**Additional conditions can help licensing authorities to respond to local challenges and concerns and issues specific to certain models of short-term letting (for example, secondary letting in tenement flats)**[[29]](#footnote-29). This fundamentally undermines the assurance that was made on 7th October from the Cabinet Secretary that it is not about overprovision or housing. While guidance will be redrafted, we need clarity on this to ensure that we do not see overprovision introduced via the backdoor.
* **While the ASSC and other stakeholders were pleased that overprovision was removed, we have concerns relating to what are referred to as ‘additional conditions’, and whether they could result in an overprovision policy in all but name**. There is no certainty what these additional conditions will be, or how a local authority may be able to introduce them.
* SupplementaryGuidance for Local Authorities currently suggests that “additional conditions are most likely to be used to address other issues for neighbours. Some of the issues raised by residents and communities in relation to short- term lets, through the public consultation and research and elsewhere, include:
	+ overcrowding of the property;
	+ noise and nuisance, including drunkenness, smoking and drug-taking;
	+ litter or other mess in communal areas;
	+ failure to maintain the property in a good state of repair;
	+ failure to maintain, or contribute to the cost of, communal area repairs and increased wear and tear;
	+ damage to property (e.g. from key boxes affixed to walls); and
	+ unlawful activity (e.g. using the property as a brothel)”.
* This is based on entirely flawed ‘independent research’ from Indigo House on the impact of short-term lets on communities (2019), which the ASSC and other industry representatives have refuted.
* Suggested templates for local authorities to use are subjective. These include:
* **Antisocial behaviour**, but guidance goes on to note that there are already a range of powers available to licensing authorities to deal with antisocial behaviour through provisions in the Antisocial Behaviour etc. (Scotland) Act 2004.
* **Noise**, with potential conditions to lay carpet over wooden flooring (which would be impossible if the property was listed), and noise monitoring devices (see ASB above). The issue of noise is, of course, subjective and can be covered with noise monitoring devices. This may incur huge costs to operators that private residents or private landlords are not subjected to.
* **Littering and waste disposal**, but guidance goes on to note that there are fixed penalties of £80 for littering and £200 for fly tipping. Penalties can be issued by the police, by licensing authorities, and by public bodies including Loch Lomond and the Trossachs National Park. It is unlikely, however, that a business will be viable if they don’t control littering and waste disposal.

With these concerns in mind, the ASSC sought Opinion of Counsel from Scott Blair, Advocate, Terra Firma Chambers. **The issue is whether an overprovision test can be derived from the 1982 Act.**

**In short, it can**[[30]](#footnote-30).

**The following points relate to the issue of over provision being available as a ground of refusal in terms of paragraph 5(d)(3) of schedule 1 of the 1982 Act**, and the legal opinion can be summarised[[31]](#footnote-31) below:

* **Scott notes the existing planning consideration considers the needs of an area, and that includes affordable housing.** The current consideration for planning is in the SDD circular, 3/2013 at Annex A of that. This annex provides a discussion of Material considerations and planning decision making and the definition within that in relation to the new submit area is “affordable housing”. The planning system therefore recognises housing and related needs and the planning consideration process specifically provides for that.
* **We require clarification as to why there is a further need for licensing to deal with what is a matter already wholly dealt with by current planning policies.**Particularly when the power for Council planning departments to do so is extended by the introduction of planning control zones in terms of the, already approved, planning SSI. **We are being told the issue for licensing is a matter of public safety therefore why leave in the option of refusal based on over provision?**
* **The two SSIs, planning and licensing, result in the two separate systems being linked,** planning being a pre-exquisite for licensing. Given the use of the existing planning restrictions and the introduction of control areas, it is not necessary for the licensing system to consider over provision because the issues are so closely linked that the role of the licensing committee in over provision would be incredibly limited and arguably unnecessary. **Over provision should cure a mischief. The ASSC submission here is that mischief is already cured by virtue of the planning control zones.**
* General licensing regulated by the 1982 Act has schedule 1 which deals with general processing and administration of licence applications and licensing in general. The SSI specifically applies that schedule the provisions to be introduced to the SSI, as one would expect. **At Schedule 1, paragraph 5(3)(d) there is a very wide provision for the licensing committee members to consider almost anything – “a licensing authority shall refuse an application to grant or renew a licence if, in their opinion – (d) there is other good reason for refusing the application; and otherwise shall grant the application”.**
* **There is then the question of suitability.  If the planning authority grants planning permission on the basis the premises are not suitable, the licensing authority must consider what makes the premises unsuitable.** They can still refuse on the basis premises are unsuitable but have to have a reason.  If that is default in safety, eg a lack of proper certification, that is one thing.  There may be an argument to be made that if planning have considered the property in question and granted planning consent, the scope for licensing to now look at over provision is narrowed.  Suitability is not the same as over provision, and no one is trying to claim it is, but where planning have considered the saturation in an area and allowed the grant of planning for a short term let property, that restricts the scope of licensing to refuse.  **On that basis would it not be better to be clear that in terms of Short-term let licences, paragraph 5(3)(d) will not extend to over provision.**
* **The proposed SSI on short-term let licensing at paragraph 13 obliges an applicant/operator to have made an application for planning permission or already have planning permission in place.** This will significantly increase costs. Many operators do not already have formal planning permission in place as they operate on such a small basis. Those who have mixed use properties and let out part of that property could find the cost of this prohibitive.
* **Stopping a short-term let being used will result in a number of outcomes mainly though that premises being removed from the market completely and being used for family and friendly only, therefore resulting in a second home;** the premises being sold; and the premises being used as a long term let in the form of an HMO. We must go back to the definition in each occasion – “affordable housing”. A vast majority of the short-term let properties will be in an area where there is not a pressing material need for affordable housing or where they would not fall within that category in any event – any six bedroom detached property with its own grounds is unlikely to fall within the definition of affordable housing.
* **If the Scottish Government insist on going down this route they must be able to justify it therefore they must be able to produce evidence that ceasing short-term lets in such areas would result in affordable housing being available.** Looking at the surveys carried out by the trade organisations a number of operators have already confirmed they would simply remove the property from the letting market altogether and it would become a **second home used by family and friends only for no payment or payment in kind and therefore largely empty throughout the year**, still not assisting the requirement for affordable housing.

**Investment: Mortgage / Insurance Provision Implications**

* Businesses need to raise capital and invest. Lenders will not do so on the grounds that a licence may be refused or revoked. This will directly impact businesses ability to raise capital.
* The supposition that current self-catering operators will or indeed can redeploy their properties to private rental tenancies is flawed. Operators with mortgages covering their property are required to have buildings insurance as a condition of the mortgage. These operators already experience difficulties finding suitable insurance policies for any holiday letting element of a main residence.
* The 2021 BRIA’s statement that public liability insurance should only add £100 a year to an insurance policy cost shows a lack of understanding of the realities of running a self-catering business. The reality is that to comply with various mortgage terms, insurance policies can cost thousands of pounds compared to standard residential buildings and contents insurance for a similar sized house.
* Crucially, where an operator has a diversified business, with a mixture of tenures: primary residence / short-term let / private residential tenancy, they may find that very few insurers are prepared to consider these types of risks. This in turn may have implications on the mortgage provision.
* It is not as simple as changing the letting type in terms of commercial property. The income received from long term let versus short term let van vary massively. What has maybe been credit underwritten on forecast or historic short-term letting income, may then become unviable. The resultant issues from this include: (1) The owner may need to subsidise payments if the new lower level of income doesn't cover the mortgage payments; and (2) The lender may feel over exposed and may ask for further security to protect their position.

**Neighbour Objection**

* We assert that vexatious neighbours continue to have ultimate control under the proposals, and unsubstantiated objections may be submitted, resulting in a licence being refused.
* In section 7 of the Order, it lays out that a licence may be refused, but doesn’t set out the criteria or grounds by which a refusal may occur. A ‘nimby’ neighbour may object and lead to a refusal.
* It is important to note that loss of a licence results in loss of a business.

**There are numerous unanswered questions on this aspect of the proposals**. On what grounds may a neighbour object and on what grounds would that / those objections be upheld/overruled? How can fairness, clarity and consistency be ensured across 32 local authorities in terms of licences being granted? What weight should be attached, if any, to an objection from someone who is a neighbour or near neighbour? Is it possible that such an objection could lead to the licence being refused, or not renewed? If so, how would fairness apply, and would that not lead to many cases where legitimate businesses operating for years without incident will suddenly become the focus of opposition from any neighbour who objects?

In terms of neighbourhood objections, evidence rather than anecdote is required when the risk to livelihoods is so great. **We believe that neighbourhood objections can be dealt with using existing regulations that are properly enforced.**

**Licence duration and renewal policy**

* To quote the Supplementary Guidance: *“A licence can be granted for a period of up to 3 years initially, after which it needs to be renewed. Licensing authorities have flexibility as to the duration of licences they grant and may grant licences for different time periods to different applicants provided they have clear and transparent criteria for doing so. Licensing authorities should adopt the simplest approach that meets their policy aims”*[[32]](#footnote-32). **This short licence period breeds a burden of uncertainty that is impossible for a small business to bare**.
* The revision to include an appeal mechanism is welcome, although we await the detail of this.

**The Booking Problem**

In addition to issues raised previously[[33]](#footnote-33), including the commercial reality that guests will simply not book if their bookings are conditional, and subject to a term between owner and guest that says the owner can cancel the booking if they cannot either obtain or renew a licence, and the short length of licenced period of up to three years resulting in huge uncertainty, **consideration should be given to properties that are let out through web platforms and agencies**.

Although in each case the legal contract is with the owner, not the agency or platform, agencies require owners to use the agencies standard contract conditions, and in the case of platforms, the default is to use their standard terms and conditions, that may not support the licensing conditions. Owners will have to change their terms and conditions to make bookings conditional on (a) licences being granted) and (b) licences remaining in force. **How will small businesses overcome this level of uncertainty?**

**Impact on Local Authorities**

**The ASSC maintains that the extra cost burden to local government who will be responsible for administering the scheme is unreasonable**. This includes: human resources, digital infrastructure, committee approval, inspection, enforcement, appeals. This comes at a time of immense strain to local authority budgets, who are under extreme financial and capacity pressures as a result of austerity compounded by the Covid-19 pandemic, with an estimated £350m cut to council budgets outlined in the recent Scottish Government Budget.

While the Committee sadly only heard from one local authority on 14th December 2021 who had been supportive of the regulations, **several local councils have expressed concerns about the impact of licensing in the most recent public consultation, as well as in recent public statements.** The comments of City of Edinburgh Council at the aforesaid session cannot therefore be taken as representative of the view of all councils.

Here’s what other councils had to say during the 2021 public consultation on the issues of resourcing, fees and start-up costs:

**Aberdeen City Council**[[34]](#footnote-34)

**Resourcing/Fees/Start Up Costs**

*“We believe that we will be deluged with neighbour objections when the applications start arriving which will result in a much bigger Licensing Committee agenda with all the associated work and costs involved to take an application before Committee. Accordingly, we believe that if the BRIA remains unchanged, it will present difficulties/resentment when the Council opens its licensing scheme for applications and applicants must inevitably pay larger fees than shown in the table of indicative fees. Resolution – We believe that Section F should be completely revised to present a realistic picture of the challenges Councils are likely to face.”*

*“Issue – Given that Short Term Lets licensing is a wholly new activity, all Councils must design and implement policies & procedures, introduce IT systems, recruit additional staff, etc, prior to their ‘go-live’ dates. The costs involved will be considerable with no income until applications start arriving and there is no indication that the Scottish Government will make Grants available to Councils to cover the start-up costs. Resolution – We believe that the Scottish Government should provide Councils with start-up finance, thereafter the licensing activity should be self-financing.”*

[**Argyll and Bute Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=600&uuId=246870012)[[35]](#footnote-35)

**Fees**

*“…the indicative fees are unhelpful as they provide an unfair baseline upon which final fees may be compared against. No reference is made to include apportionment of start-up costs for a very complex licensing regime as these will require to be recovered in the initial licensing period.”*

**Resourcing/Start Up Costs**

*“…The start-up costs for local authorities in establishing all the components of the licensing regime including additional resource, costs associated with implementing new or developing existing ICT systems and general licensing and planning processes/policies are considerable. It will be difficult to recover these from licensing fees where preparatory works and applications received are may be made over 2 financial years. Consideration should be given to financing local authorities to offset start-up costs, in the way as the Scottish Government provided for the private property owner registration scheme.”*

[**East Renfrewshire Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=660&uuId=673652465)[[36]](#footnote-36)

**Resourcing/Fees**

*“As a smaller mainland local authority with very low levels of short-term lets we are still concerned whether the volume of resources that will be required to set up and operate a full licensing scheme is proportionate…we are still concerned that the differences in size and geography, and therefore operating costs, are likely to result in a disparity in the fee levels being set across the country and how this may impact STL levels.”*

[**Fife Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=300&uuId=903862775)[[37]](#footnote-37)

**Fees/Resourcing**

*“It is not helpful for the paper to set out average indicative fees for licences, even allowing for 2 different scenarios. The fees set out are incredibly low, and could be even lower once all the possible discounts are factored in. The total fees for the scheme are supposed to meet the costs of the scheme and it is clear from the BRIA that the fees can include the costs of establishing as well as running the scheme.*

*The costs of setting up new teams and new processes, possibly buying new IT packages, will be considerable and will have to be spent ahead of any fee income coming in. LA’s won’t know the level of applications expected so it will be difficult to set fees at a level that will meet the costs.*

*This section of the BRIA should be more realistic and not give a false hope to applicants of low fees, as the scheme can be compared to the HMO licensing scheme, then fees are likely to be more realistic if that table at Appendix B on page 52 is used as indictive fees. This would range from £167 (renewal fee in Midlothian) through to £1906 (initial fee in Glasgow)*

*It is also of note that the vast majority of LAs recognise that there is no cost saving to the Council in a party renewing their application, with only 13 LAs listed charging a reduced fee for renewal applications. When LAs make a more realistic costing of their fees which will be significantly higher than the average indicative fees, it will be the LAs who receive complaints and will be inundated with queries and complaints regarding the discrepancy between the figures quoted. It appears that many costs have not been factored into the calculation including enforcement work outlined in paragraph 152.”*

[**Highland Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=600&uuId=472337303)[[38]](#footnote-38)

**Resourcing**

*“The Council wish to highlight the significant resource implications the Licensing Order will have for the Highland Council:*

*• Impact on officer time and resources – With approximately 10,000 premises that this will affect in the Highlands, officers will not only be required to implement policies and guidance but also carry out site visits and monitor compliance and enforcement.*

*• Impact on committee time and resources – there may be an increase in the potential applications before the committee as a result of objections made or lack of information provided by the applicant in respect of their application.”*

[**Perth and Kinross Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=perth&uuId=79592235)[[39]](#footnote-39)

**Fees**

*“There is a wide discrepancy in terms of potential costs involved in the operation of the proposed Licensing Scheme. The Scottish Government has quoted indicative application fee costs of around £223-£377 while other predictions are as high as £1200-£1500. These discrepancies threaten the fragile recovery of Scottish tourism and demand further work to be undertaken on the actual position.”*

[**Renfrewshire Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=720&uuId=9683015)[[40]](#footnote-40)

**Resourcing**

*“…we note the proposed requirement that local authorities must be satisfied that the Mandatory Conditions will be able to be met by the licence holder prior to granting a licence. We are not persuaded that this requirement is necessary and note that this is not a specific requirement in other similar licensing regimes such as HMO licensing (only that a property is suitable as an HMO). Currently, our HMO licensing process in Renfrewshire involves inspection of the properties to be licensed, but thereafter, as with all other local authority licensing regimes, compliance with mandatory and other licensing conditions is a matter for monitoring and enforcement.*

*We are very concerned that, particularly when taken together with the 9 month determination period referred to above which will apply after the initial transition period, this additional requirement regarding Mandatory Conditions will require considerable resources to be allocated to short term lets licensing. We have experienced considerable difficulties in relation to landlord registration applications since the introduction of the Private Landlord Registration (Information) (Scotland) Regulations 2019, which relate to broadly similar safety issues as a number of the Mandatory Conditions. Due to the extent of these difficulties, a report is being taken to our Regulatory Functions Board (which is in effect our Council’s licensing committee) very shortly. We anticipate that, based on the proposed checks involved, fees for short term lets may require to be comparable to HMO licence fees to ensure that the cost of operating the short term lets licensing regime can be recovered, as with other licensing regimes under the 1982 Act.”*

[**Shetland Islands Council**](https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=360&uuId=526916605)[[41]](#footnote-41)

**Resourcing**

*“No comment other than to state that it seems an unnecessary [sic] burden for both the LA and business owner in some LA areas where there is no problem in the first place and a lack of resources to set up and manage such a licensing scheme. This authority have had one complaint about a secondary letting property and one about a B&B in the last 20 years.”*

* As these quotes clearly show, many local councils are therefore concerned about the resource implications of the regulations at a time when their budgets are already stretched, as well as the administrative burden and the lack of specific Scottish Government funding for set-up costs. Additional burdens will be placed on local authority planning and licensing teams to manage the requirements of a new scheme **at a time when they can least afford it** – despite claims that councils will be able to recoup this later down the line through fees.
* However, **there are still concerns from the second consultation exercise** that have not been acted upon. Please see **Annex 4** for the specific concerns highlighted back in the 2020 consultation from Aberdeen City Council, Borders Council, Comhairle nan Eilean Siar, Glasgow City Council, Highland Council, North Ayrshire Council, South Ayrshire Council, Stirling Council, and West Dunbartonshire Council.
* Of course, local authorities can identify self-catering units, since they are obliged to register with Non-Domestic Rates if the property is available for let for over 140 days per annum. The concern might be that the bone fide, legitimate businesses that operate over the radar will be hit with additional licence fees for no material benefit, and the casual hosts (who one may argue this is trying to address), will fly under the radar.
* In addition to the latest consultation responses, in recent weeks, there have been a few developments at local council level in respect of the licensing scheme.
* **Highland Council passed a motion on Thursday 28th October 2021 which backed our proposals for a registration scheme for short-term lets with mandatory health and safety**.[[42]](#footnote-42) **Perth and Kinross Council**’s consultation submission from 2021 also backed the ASSC approach.
* **East Lothian Council** has confirmed to the ASSC that:

***“In particular, we are wrestling with the issue of how the costs of establishing the licensing scheme can be met while we continue to operate in this challenging financial environment. As you have also highlighted, the fee levels for applicants need to reflect the cost of administering the scheme, but, until we have more information regarding this matter and an idea of the number of applications we might expect, we are unable to give any robust estimate of likely fee levels. This is administratively difficult for the Council but potentially much more problematic for owners of short term let properties, who need to make decisions about the future operation and commercial viability of their properties. Whilst we acknowledge that some areas have suffered difficulties as a result of unregulated short term lets, we are particularly anxious to avoid compromising the valued and valuable tourism sector in East Lothian through implementation of a ‘heavy handed’ and, thus, expensive, licensing scheme to no real benefit.”***

* Furthermore, Highland Council have shared with the ASSC that they estimate a need for 6-17 staff to implement licensing. This does not include preparation for planning control zones. These staff will need permanent contracts but given the last 10 years of cuts and voluntary / redundancies, how such councils be able to afford this HR cost?
* **West Lothian Council**: officials said that short-term let licensing would add needless workload to councilstaff who have seen a 3000% increase in their caseload since the start of the pandemic the council’s licensing solicitor questioned why the proposed licensing should be mandatory rather than optional for local authorities.[[43]](#footnote-43)

**Key Questions**

* How can a local authority set fees, or attribute HR resource, with no baseline data relating to how many premises (of all forms - self-catering units, B&Bs, Glamping pods, caravans in trees as well as causal home sharers) will need to be licenced?
* How will local authorities identify all of the premises that will require a licence?
* On this basis, is licensing implementable within the prescribed timescales?

**Legal Perspective on Local Authority Impact**

* Legal experts have long since predicted a surge in licensing applications for short-term lets for when the scheme goes live, potentially overwhelming local authority departments. We also believe that these concerns have not been acted upon by the Scottish Government
* The **unprecedented scale and resource implications for local authorities** were well summarised by licensing expert Stephen McGowan of TLT LLP[[44]](#footnote-44). Mr McGowan, member of the Short-Term Let Working Group, explained that the regulation will have a significant impact on local authorities and other local services[[45]](#footnote-45). He said: *“Provision will need to be made to deal with the impact of such a magnitude of applications on local authority resources. A massive rush of applications of this order could bring licensing administration to a halt, and have a knock-on effect on reporting obligations with Police Scotland and other authorities such as Fire and Building Standards, who will likely have to comment on each application. This could impact on processing times for other types of civic licence.”*[[46]](#footnote-46)
* Mr McGowan also noted the following on the implications of licensing and provided a comparison with changes made to the liquor licensing regime: *“It has been put to me that councils can “gear up” and bring in temporary staff to help process these applications, but that would only take us so far. There are approximately 32,000 properties in Scotland registered on the successful Airbnb platform alone. By contrast, when the liquor licensing regime changed in 2009 there were around 16,500 applications to process and it was a mammoth task for everyone concerned. The licensing system is supposed to wash its own face and it will be for local authorities to determine a fee for these applications to cover projected costs, but even that is not the full picture. Licensing is a specialist area and the impact of the new regime is not just about the cost of employing temporary office staff to process bits of paper. It’s also about the inspections that will have to occur in order to produce reports that the properties meet the required safety standards. There is also the impact on police resource. Every application will need to be reported on and every person checked for criminal convictions and so on. The police may also be asked to report on evidence of antisocial behaviour. The police will see no percentage of the licence fee, and all of this will be happening on top of the other licensing business that both the council and the police are dealing with. It is not too wild a projection to see how the licensing system itself could creak and create delay and logjam, without the right precautions being taken”*[[47]](#footnote-47)*.*
* The Law Society of Scotland also warned on the cost of the regulations and local authorities may not be ready from a resourcing perspective: *“There are unlikely to be resources in place at present in local authority licensing or planning departments to cover such additional and in certain areas, extensive work.”[[48]](#footnote-48)*
* The policy intention is that the fee levels should cover adequately the staff and administrative costs. However, that ignores the considerable cost of establishing the scheme, as the Law Society point out: *“There are often significant infrastructure costs in introducing new schemes, for example new IT systems, which cannot always be fully recovered…We question whether it is proportionate for applicants to be fully liable for costs of establishing a system, including preparing staff to run the scheme. We suggest that it is appropriate to consider this question in the context of balancing the extent of the mischief which the scheme aims to regulate with the potential gain to the wider public of regulation. In addition, there are likely to be practical challenges with this approach. How may each local authority calculate expected numbers of applications be quantified to be able to work out what the costs should be per application? What is the approach to be by local authorities to differing circumstances, for example, those undertaking home sharing versus those undertaking secondary letting?*[[49]](#footnote-49)
* The Licensing Law Committee of the Law Society of Scotland has emphasised the importance of piloting the new licensing scheme ahead of implementing the new powers – but the Scottish Government have no plans to do this.
* The Law Society of Scotland consultation submission (2021) noted that *“As we have indicated previously, there are significant implications arising from these* ***timescales for the licensing authorities. We are concerned with the internal resourcing*** *that will be required and if that provides sufficient time. Some reassurance should be sought to confirm support for these timescales on the proposed implementation.”*[[50]](#footnote-50)
* The Scottish Government continue to maintain that the fees charged will make the system cost neutral but that does not address: (a) The initial costs of setting up licensing schemes; and (b) The impact of Covid-19 on local authorities from a financial and personnel perspective and how this will be impacted by the additional burden of licensing. To quote the then Minister responsible for short-term let regulation Kevin Stewart MSP*: “Local authorities will be able to charge fees to cover the cost of establishing and running their short-term lets licensing scheme.****The Scottish Government has no plans to provide grants or loans to local authorities to do so.****”*[[51]](#footnote-51)
* The Impact of COVID19 on the Financial Sustainability of Local Government in Scotland Consultation responses further illustrate that local authorities have neither the funds, nor time to spend on implementing a licensing scheme. [[52]](#footnote-52) The Joint Submission from COSLA, Solace and CIPFA Directors of Finance makes for some stark reading and merely underlines that this is the worst fiscal climate to introduce such a costly scheme.[[53]](#footnote-53)
* To take one example of the financial pressures faced by local authorities. Highland Council’s Medium-Term Financial Plan- Update[[54]](#footnote-54) outlined a £50million budget deficit in 2022/23, rising to £124million in 2026/27. **This does not include the financial burden of short-term let licensing or planning control zones.** To expect Highland Council to front load the development and administration of licensing (to be in place by October 2022), when applications are not to commence until April 2023 puts the local authority at a funding disadvantage. It may result in impact on core funding activities across the region.
* It is clear that increased regulation will place additional burdens on local authority planning and licensing teams to manage the requirements of a new scheme at a time when they can least afford it. **A proper impact assessment of the costs is required urgently.**
* The short-term letting and tourism industry has repeatedly called for the Scottish Government to listen to expert industry concerns and to opt for a more flexible, proportionate, and business-friendly registration scheme.
* New licensing schemes appear to be the last thing that local authorities need in terms of financial resource or manpower. A one size fits all approach is not supported by local authorities. They should not be additionally burdened at this time or in the foreseeable future, particularly as many do not want the mandatory powers.

**Dismissal of Industry**

* After years of regulatory discussion, the ASSC desperately wanted to be in the position to be able to support the Scottish Government's final version and endorse it to its members and the wider industry. Unfortunately, we are not in a position to do so.
* Our concerns are shared by the Federation of Small Businesses (FSB), Scottish Land & Estates, Scottish Agritourism, NFU Scotland, Professional Association of Self-Caterers, Scottish B&B Association, Scotland’s Best B&Bs, and numerous DMOs that represent thousands of micro businesses throughout Scotland (including, but not exclusively, South of Scotland Destination Alliance, Visit Arran, Visit Moray Speyside, Cairngorms Business Partnership and Love Loch Lomond).[[55]](#footnote-55)
* The FSB’s longstanding concerns about the proposed regulations were highlighted to the Committee on 13th December 2021[[56]](#footnote-56). In summary, they highlighted:
1. *“We believe that regulating the self-catering and B&B sectors in the proposed way is disproportionate – especially considering an available alternative regulatory model has been developed by the Association of Scotland's Self-Caterers (ASSC) and endorsed by VisitScotland and many others. Indeed, the regulations are a flawed and blunt attempt to address specific issues that have arisen in the holiday accommodation market with the significant growth in Airbnb (and similar) rental properties in a small number of local communities.*
2. *We fear that the creation of licensing schemes and control areas will have a detrimental impact on local economies across Scotland – and that the impact will be most acute on the smallest businesses. We expect that fees associated with the licensing and planning schemes will be high, and this will have a big impact on local businesses with typically small profit margins.*
3. *We believe that now is not the time to be introducing new regulations on key local businesses in the self-catering and B&B sectors. Indeed, it is highly likely that FSB members in these sectors will be badly affected by the Omicron variant and the introduction of new Covid-19 mitigations by the Scottish Government.”*

**Antisocial Behaviour**

Councils already have powers at their disposal to tackle anti-social behaviour associated with holiday letting through the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011). However, they need to enforce it, a point echoed by the then Minister for Local Government, Kevin Stewart in parliament on 8th November 2017. He said that councils had *“quite comprehensive powers to deal with antisocial behaviour and noise nuisance”*, before noting that *“I expect them to use those powers effectively…I challenge local authorities to consider using it [Order 2011] and other antisocial behaviour powers, as well as the powers in relation to noise and environmental health that are currently at their disposal.”[[57]](#footnote-57)*

In terms of background:

* **Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004** enables local authorities to serve an Antisocial Behaviour Notice on a private landlord when an occupant or visitor engages in antisocial behaviour at, or in the locality, of the property.
* **The** **Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011** granted local authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use.

To again quote the Minister formerly in charge of short-term let regulation, Kevin Stewart MSP: *“The [ASB] powers may not be being applied properly, which might be the difficulty in all this…Under the order that I mentioned, the antisocial behaviour notice is served not on the people in the property who are causing the problem but on the landlord. That is extremely important. Folk having left a property should not affect in any way, shape or form the serving of a notice on the landlord.”*[[58]](#footnote-58)

More recently, the Cabinet Secretary for Housing Shona Robison MSP stated that *“We expect all relevant authorities to use the powers available to them to deal with antisocial behaviour”.*[[59]](#footnote-59)If councils are not utilising these powers, they need to explain why and also whether they think the Scottish Government’s legislation is deficient, with a view to getting this strengthened for the benefit of local residents. The Scottish Government state they have no plans to review the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 but are *“always open to listening to the police, local authorities, the court services and communities to see how we can improve the approach being taken to tackle antisocial behaviour for the benefit of all communities.”*[[60]](#footnote-60)

In July 2021, the ASSC submitted Freedom of Information requests to all thirty-two local authorities in Scotland to ascertain:

* The number of anti-social behaviour complaints made against holiday lets in Scotland over the course of four years, from 2018-2021
* To inquire about the number of times local councils had utilised relevant anti-social behaviour legislation to deal with the issue over the same time period.
* Regarding complaints of anti-social behaviour concerning private tenancies and student accommodation over the same timeframe
* The number of times local councils had used anti-social behaviour legislation in response, so that a comparison could be made between the different types of accommodation.

The ASSC’s FOI requests of local councils show there is a mismatch between perception and reality: the **number of ASB complaints against holiday lets in Scotland over the past five years is minimal**.[[61]](#footnote-61)

**The ASSC believes that existing anti-social legislation needs to be enforced**. In addition, the Scottish Government and local authorities could **encourage or enforce noise monitoring** in all accommodation where required to evidence a problem and assist in deployment of ASB. The ASSC suggested this as a solution as far back as 2017 as part of the Forward Together: A Collaborative Approach to Short-Term Letting policy paper.

**In light of the revisions already made, what is the general interest that is being protected that is not already being protected by existing legislation?**

**Illegal Activity**

The Scottish Government’s BRIA makes a staggering assertion regarding how short-term lets are used, stating that they have been utilised *“for criminal enterprises (such drug dealing, sex trafficking etc.), with or without the collusion of the host”*.[[62]](#footnote-62) To professional operators who pride themselves on their business, this was insulting to say the least.

Police Scotland’s Evidence Submission to the Scottish Parliament Local Government, Housing and Planning Committee meeting – 14th December 2021[[63]](#footnote-63) states: *“The Police Scotland National Interventions Unit have confirmed there is intelligence or anecdotal evidence that;*

* *there are* ***prostitutes*** *moving about Scotland utilising short term lets, advertising their services and travelling to the areas where there is potential business*
* ***Drug dealing*** *takes place whereby a drug dealer houses themselves at a short term let, most recently in relation to county lines investigations*
* ***Anecdotal information*** *from SSPCA that short term lets are being used to facilitate* ***puppy farming*** *(where a `nice` property is being purported as the home of the owners, thus attempting to legitimise the activity).*

*In terms of Innkeeper, the Police Scotland Licensing Database****, there is no information recorded on this system in relation to short term lets****.”*

Police Scotland reference that *“The predicted influx of applications will also present challenges in terms of police processing. Police Scotland are keen to ensure that thorough enquiries into applications are conducted and no opportunities missed to prevent the infiltration of Serious and Organised Crime Groups into the industry.”* They request an extension of the timescales for submission of objections or representations in order to administer applications. This will further lengthen the process for law-abiding, legitimate businesses. This seems excessive, given the lack of any evidence and being based entirely on “***potential for criminality in the sector****”.*

Meanwhile, self-caterers have been **subjected to vigilante groups, online trolling and bullying campaigns** against legitimate short-term let operators in both Edinburgh and elsewhere in Scotland due to the increasingly negative narrative. We have been provided with a specific contact and reference number from Police Scotland to log these issues. Evidence of this can be provided if required.

**What evidence is there of charged incidences of criminality, or convictions brought against self-catering or B&B businesses associated with illegal guest activity?**

**Other Issues to Consider**

The **ASSC’s short-term let consultation response (2021)** comprehensively sets out all of our concerns in respect of the licensing proposals.[[64]](#footnote-64) We would encourage you to consider this substantive evidence. We have the additional following points to raise:

**Equal Opportunities: Impact on Women**

* The Equalities Impact Assessment (EQIA)[[65]](#footnote-65) demonstrates that there are no potentially negative impacts to equality groups as a result of the introduction of our short-term lets licensing scheme and planning control areas".

However, according to the ASSC Sectoral Survey into Self-Caterer Access to Covid-19 Business Support Week 3 (April 2020)[[66]](#footnote-66), the **majority of self-catering businesses are run by either females or partnerships where** the self-catering element of the business is managed by the female[[67]](#footnote-67), with just 12% of operators being male. This is often linked with females being able to fit the operation of their business around child-care and other responsibilities. The prejudice applied to the Scottish self-catering sector will therefore have a disproportionate impact on women.

**Impact on Tourism**

The ASSC contends that the short-term let licensing proposals do not align with ambitions for more sustainable tourism, the National Tourism Strategy, the National Performance Framework, the Covid-Recovery Taskforce, or the Principles Agreement between Scottish Government and Business.

***Sustainable Tourism***

* **Short-term or holiday lets are vital to sustainable tourism in Scotland**. Staycations, holidaying at home, not getting on a plane will all make a big difference to our carbon footprint on earth, way beyond Covid-19. It’s something we are all reflecting on and thinking differently about as we witness our planet in crisis. **Self-catering homes are a solution to sustainability, not a problem**[[68]](#footnote-68).
* The Scottish Tourism Alliance wrote to the Cabinet Secretary Shona Robison to articulate the concerns of self-caterers in September 2021: *“In these Covid times there has over these past months been a sizeable upturn in demand for self-catering accommodation and insights would suggest that this trend is unlikely to change in the years ahead. There is no doubt that licensing will have knock-on effects for related industries; if there is a reduction in the number of professional self-catering properties, B&Bs and guest houses, this will have a material impact on other tourism sectors: visitor attractions, activity providers, restaurants and cafes and the onward supply chain. In 2021 we have seen a significant increase in domestic tourism since re-opening in the summer.  Many guests have chosen to travel domestically for the first time and self-catering has been the accommodation of choice. While international travel is likely to recover strongly in 2022, I am confident that we will continue to see strong demand for Scottish self-catering…the* *majority of the STA Council Members who attended our meeting on the 22nd July and the majority of those who put forward views prior to this meeting were in full support and remain in full support of the ASSC’s views and recommendations.”* [[69]](#footnote-69)

***Alignment with National Tourism Strategy: Scotland Outlook 2030***

* The ASSC was proud to be part of the Strategy Steering Group to develop Scotland’s National Tourism Strategy: Scotland Outlook 2030. **[[70]](#footnote-70)**
* The ASSC attests that even with the revisions made, the proposals still do not support the National Strategy and put small businesses at a disadvantage.

***Alignment with National Performance Framework***

* The ASSC contests that the regulation of short-term lets as proposed does not support the following National Performance Framework (NPF) objectives:
* **Economy:** short-term lets are one of the more sustainable holiday sectors with businesses supporting communities through local visitor spend and through business sourcing local tradesmen and suppliers. The uncertainty of licence renewal every three years will cause immense difficulty for business and reduce global competitiveness. Uncertainties will result in low business confidence, uneven investment and difficulties getting finance for improvements. The sheer burden of a licensing scheme will put us at a disadvantage with our competitors.
* **Fair Work and Business:** Uncertainties around licence renewal will stifle innovation and development, with a disincentive to invest in a business which may be forced to close in a short timescale.
* **Communities:** Rather than hollowing out communities, self-catering units support them and retain the visitor pound in the local economy, demonstrating community sustainability.
* **Culture:** Tourism plays a vital role in supporting culture. Self-catering units have a noble history and are part of our cultural heritage, plus playing their part in providing accommodation for major events, and the Edinburgh Fringe in particular. The ASSC’s research has shown that licensing may see a significant number of short-term lets leaving the sector, reducing the available choice of accommodation for cultural visitors, audiences and performers.
* **Environment:** Short-term lets offer a sustainable way to holiday. Those in the VisitScotland Quality Assurance scheme have to comply with a range of environmental conditions to achieve their award. A significant number belong to Green Tourism scheme which is more demanding again.
* **Human Rights:** It is a human right to continue to operate a legally established business without disproportionate burden through licensing, with its uncertainties.

***Covid Recovery: Alignment with The Scottish Government Recovery Task Force***

* The Scottish Tourism Recovery Task Force (STRT)[[71]](#footnote-71) was formed as a short life working group, to provide independent recommendations for Scottish Ministers and the UK Government on the essential actions to support tourism and hospitality recovery in Scotland. Outcome 4 references building business resilience, sustainability and profitability: ***“It is not just businesses and people’s livelihoods that are at risk – it is peoples’ lives. The mental and psychological impacts of living with the day-to-day uncertainty and responsibility are immense and will leave deep scaring. Rebuilding mental resilience will be just important as rebuilding financial to long term sector recovery.”***
* The ASSC also notes the actions aligned to target outcomes includes that in order to *“Improve business viability and prevent closure and mass redundancy”* a priority is noted as ***“Equality in treatment of Airbnb and rest of accommodation services sector”***[[72]](#footnote-72). Responsibility for this action was dedicated to both UK and Scottish Governments. This affirms to our concern about ‘parity for all accommodation providers’ and a ‘level playing field’.

***Principles Agreement between Scottish Government and Business***

* In December 2021, the Scottish Government signed a Principles Agreement with business organisations that: *“Recognises the success, health and growth of this diverse and dynamic business community is fundamental to Scotland’s future economic prosperity and wellbeing… this agreement sets out the principles which will underpin genuine partnership working between the Scottish Government”*[[73]](#footnote-73) and business and tourism organisations. These organisations also wrote to the Scottish Government back in 2020 highlighting the potential damage to our sector and calling for a reconsideration of the short-term let regulations. That is in complete contrast with this piece of legislation.

**Key Questions**

* How can policymakers assuage the very real fears of small businesses across Scotland who, despite still being in survival mode due to Covid-19, are distressed that the Scottish Government is introducing legislation that will potentially destroy their businesses and rob them of their livelihoods?
* Is this about controlling Airbnb, rather than traditional accommodation providers? If so, the ASSC’s compromise solution reflects this. We discuss this in further detail below.

**The Solution: Exemption for Registered Accommodation**

* Rather than scrapping licensing altogether, **Article 3(1) of the Licensing Order could be amended to provide that an activity is exempt from the licence requirement if it is in respect of “registered accommodation” *and* the “registration conditions"** (essentially the existing mandatory licensing conditions) are being complied with.
* This would have the effect of providing a robust and legally effective regulatory regime – if an owner fails to register or having registered fails to comply with the mandatory conditions, they would no longer be exempt from the licensing requirement and would therefore be in breach of the Licensing Order with resulting legal penalties.
* A register could be introduced via the **Development of Tourism Act 1969**. Professional operators, members of DMOs, VisitScotland Quality Assurance members, as well ASSC and Scottish B&B Association members could register and become exempt, thus avoiding business closures and harmful knock-on effects. This would be based on criteria to distinguish businesses that were eligible for Covid-19 Grants.
* The ASSC’s proposals help make the crucial distinction between bona fide businesses like self-catering, who have been a mainstay of the tourist offering in Scotland for decades, and amateur operators facilitated by online platforms; and will also deal with the worst excesses of the latter who cause the most disruption for residents and who are insufficiently regulated.

**Overall, we would argue that this proposal allows for a suitable compromise between differing positions: the Scottish Government can introduce licensing but exclude registered accommodation. This approach recognises the intention to regulate short-term lets through a licensing regime to protect health and safety but achieves the same policy objectives in a more proportionate and cost-effective manner for those already complying with the proposed mandatory licensing conditions.**

**Other Benefits the Register could Deliver**It becomes the instrument which owners and managers can utilise to make a formal declaration that they are operating within existing legal compliance, and adhering to the industry Code of Conduct. In this respect ‘Registration’ offers far reaching benefits:

* Guest confidence that the property is genuine and offered legitimately - Guest and community confidence that the property meets industry standards of safety, compliance and quality
* Community confidence that irresponsible owners, operators (and guests) can be targeted and excluded
* Ensures industry participants are professional and compliant.
* Evolve standards, industry recognition, self-fulfilling operator pride.
* A Registration Mark could be developed as a badge of confidence and standing.
* Local Authorities and VisitScotland could have access to same data, but reduce the administrative burden of inspection and enforcement (e.g., 18,000 SCUs on NDR).
* Fast track exclusion of second homes from NDR and Small Business Bonus Scheme
* Assist Assessors with NDR data as part of the annual declaration

**Audit and Verification Processes**

* Accuracy of data and evidence of compliance can be assured using technology that is common today via a relatively simple proactive online process, akin to the Landlords Register.
* Registrants would be required to certify details and property compliance, and upload key source documents (Rates Notice, Insurance Policy, etc) completing the declaration and issuing a Registration ID with an online payment. Most key information could be verified automatically.
* VisitScotland and Local Authorities can use the same technology stack to offer a centralised database, in order to inform future investment and resource.
* Identification of properties could be clear:
**VS**NDR/CTX + LA ref + unique code of property (Registered Accommodation)
**LA**NDR/CTX + LA ref + unique code of property (Licenced Accommodation)

**The ASSC Exemption: Benefits for Stakeholders**

Overall, the exemption proposal assures the appropriate regulatory balance, providing the following benefits for government, professional and amateur operators, tourists, and local communities.

* **Scottish Government**: addresses the key concern of ensuring mandatory health and safety and providing publicly accessible information ownership.
* **Local Councils**: reduces the cost of administering businesses who are already compliant and can provide the data required by councils considering introducing a short-term let control zone.
* **Scottish Assessors**: Assist with Non-domestic Rates Revaluation and exclusion of second homes in Small Business Bonus Scheme with accurate, up to date data as part of the annual declaration.
* **Traditional Businesses**: minimises the burden for hard-pressed self-catering and B&B operators, already compliant with existing regulations, in a way that does not inhibit their Covid-19 recovery.
* **Amateur Operators**: raises standards across the short-term let landscape, nudging individuals to adhere to health and safety standards, while incurring stiff penalties for those who do not.
* **Tourists**: continues to allow visitors to continue to enjoy Scotland’s unique hospitality and diversity of accommodation, while maintaining standards and quality.
* **Communities**: enables professional operators to provide a badly needed economic boost to local economies, while also dealing with negligent or rogue operators.

**Legal Support for the ASSC’s Proposal**

**The exemption proposal has legal support from Hazel Moffat, Head of the Public Law & Regulatory Division of Burness Paull**.  As background, Hazel Moffat was appointed to the Scottish Parliament’s Non-Government Bills Drafting Panel to assist Committee and members with the drafting of Bills. She has stated the following:

*“The exemption proposals seem to me to be worthy of serious consideration.  The current drafting, though this inevitably may need further refinement, is simple and on the face of it effective.  It introduces a simple alternative of registration which would help address some of the underlying legal concerns with the current licensing regime being entirely disproportionate and unnecessary when looking at the specific policy objectives as well as costly and unworkable from an operational perspective.  Having one central registrar also mitigates against any inevitable inconsistencies and inequities across the country which can often be the cause of discontent and legal challenges.”*

**Scottish Government Response to Exemption Proposal**

In the 2021 BRIA, the Scottish Government says it has “carefully considered” both the more full registration scheme proposal and the second, narrow exemption proposal.  It then proceeds to dismiss both with minimal reasoning.  The focus as stated in the BRIA has been on “do nothing” or “enact the Order as drafted” (paras 56 and 57). In particular, on the exemption, it simply says if it does not mirror the exact conditions of licensing then it doesn’t fulfil Ministerial policy objectives.  If it does, then there has to be an assumption that the administration will be more efficient if delivered by local authorities, which frequently carry out licensing. That is the extent of the analysis which can hardly be considered robust or indeed careful.

* As noted in 2020 and 2021 consultation responses, local authorities have voiced concerns about resources, cost and capacity in relation to short-term let licensing.
* VisitScotland is a highly credible central resource, highly experienced in delivering a national Quality Assurance scheme, and it could be argued that they would be more efficient (including to cost) and consistent than 32 local authorities (regardless of how efficient they could possibly be). We also note that VisitScotland is supportive of the ASSC proposal.
* Overall, the Scottish Government has failed to address the other benefits of a registration system namely that small business can operate pending any registration where they cannot pending any licence application.

**Legality of the Scottish Government licensing scheme – and how registration could mitigate against outstanding concerns**

**The ASSC has previously submitted evidence regarding various legal considerations pertaining to this legislation which appear to have been disregarded or ignored[[74]](#footnote-74).**

Introducing legislation to provide the data to support the need for legislation[[75]](#footnote-75) is not consistent with the principles of Better Regulation. Justifications for imposing policy and regulatory restrictions on short-term accommodation rental services must be supported by clear evidence that the general interest needs to be protected, and evidence of the link between short-term accommodation rental services and the protection of the general interest.

The Scottish Government has failed to properly address underlying legal issues with the licensing scheme. In particular Annex 5 of the BRIA highlights some of the concerns raised by ASSC but overlooks other significant issues raised**.** The following legal points made by ASSC have not been replied to in any great detail, but that could be mitigated if registration / exemption for registered accommodation is re-considered:

* **Potential illegality with Provision of Services Regulations (the “Regulations) 2009 (as amended) and the Provision of Services (Amendment etc.)(EU Exit) Regulations 2018** which preserved the Regulations notwithstanding the UK’s withdrawal from the EU.
* **Conditions for granting licensing authorisation**. These are substantially mitigated if registration is an alternative which allows operation whilst registering.
* **Potential human rights challenges (Protocol 1, Article 1 and Article 17 of the Charter on Fundamental Rights – Right to Property):** the proposed Order will result in an interference with property rights, and this can only be done in the pursuit of as legitimate aim by reasonably proportionate aims.  Introduction of a registration system that allows licensing/enforcement of licensing to be focused on only those who fail to register or fail to comply with registration conditions allows a more risk-based approach to regulation and more proportionality / reasonableness upon those regulated and the use of resources by authorities.
* **Consistency with Scottish Government’s Better Regulation Agenda, and the Regulator’s Strategic Code of Practice (Clause 2 & 3)**, and potential breaches based on present proposal by not contributing to sustainable economic growth (in fact creating a costly administrative burden) and creating a  disproportionate regulatory environment. The introduction of a registration system that allows for a more efficient centralised option of registration which protects the ability of small businesses to operate with certainty pending registration. As above, it allows licensing/enforcement of licensing to be focused on only those who fail to register or fail to comply with registration conditions allows a more risk-based approach to regulation and more proportionality of those regulated and the use of resources by authorities.

**ANNEX 1: THE NEED FOR EMPIRICAL DATA**

* Underpinning any decision to regulate the short-term letting sector is the need for **robust, empirical data**. Unfortunately, there has been a tendency to focus on scraped data from Airbnb – based on inaccurate information and flawed methodologies – leading to misleading conclusions about the nature of the short-term letting landscape.[[76]](#footnote-76)
* The **ASSC is not averse to regulation and has proactively shared evidence-based policy papers and recommendations**[[77]](#footnote-77) since 2017 about the nature and scale of short-term letting in Scotland but unfortunately this has been ignored by a focus on this unreliable data from one marketing platform.
* The Scottish Government’s draft BRIA for short-term let licensing references research noting that there were approximately 32,000 active listings on Airbnb in May 2019.[[78]](#footnote-78) However, this **does not** mean that there are 32,000 short-term lets which would be readily available on the long-term housing market as many have erroneously claimed.
* **The number of listings on online platforms in any given area is not necessarily an indication of impact on long-term housing**. For example: (a) many of these properties are already the primary residences of individuals involved in ‘homesharing’ who share a room(s), or their entire home while away; (b) each listing does not represent a single housing unit. A property can have multiple listings; and (c) marketing platforms like Airbnb contain a diverse range of accommodation including hotels and B&Bs, as well as unconventional accommodation like yurts, barns, boats, and campervans and one train, which cannot be seen as housing stock.
* Furthermore, properties can also be advertised across multiple platforms, be it Airbnb, Expedia or Booking.com – referred to as **‘cross-listing’** – creating the mistaken perception that there are more properties available for short-term let than there actually are. Properties can be listed multiple times on one or many platforms. Whole homes or single rooms in the same house often appear on more than one platform.[[79]](#footnote-79)
* Parliamentary answers from the Scottish Government[[80]](#footnote-80) confirm the **BRIA figures were from scraped data provided by InsideAirbnb** (not from Airbnb directly) and that they **could not break this down by property type** – be it a single/shared room, entire property, or unconventional accommodation. This means the estimation there are 32,000 *“short-term lets”* is wholly unreliable. It is also based on pre-pandemic 2019 figures. Moreover, they admit *“****we do not have an estimate of how many short-term lets will return to the long-term housing market****.”*[[81]](#footnote-81)
* The ASSC have previously argued that there is a lack of data showing an empirical link between short-term lets and housing shortages and that a more holistic approach needs to be taken to the issue. **Housing challenges are multifaceted and the growth of short-term lets should not be used as a convenient scapegoat for wider policy failures**; namely the failure to build more homes or bring empty homes back into use. Thus far, no evidence has been published in Scotland that demonstrates a concrete link between short-term letting and the Scottish housing supply.

**Annex 2: REGULATIONS AND GUIDANCE ASSOCIATED WITH ‘TRADITIONAL’ SELF-CATERING AND B&B ACCOMMODATION IN SCOTLAND**

The following table sets out the key requirements in place for self-catering and B&B accommodation in Scotland and identifies whether this is a legal requirement or guidance for each.

VisitScotland operate a Quality Assurance scheme which asks businesses to confirm they comply with their statutory obligations; health & safety/ fire regulations etc. However, they do not list the specifics nor check everything is in place (though the business owner/manager does sign up in commitment to having these in place and if any legitimate concerns regarding lack of compliance were raised they would be omitted from the scheme.

Members of the ASSC are required to make an annual declaration confirming their Commitment to Quality, the ASSC’s Quality Assurance scheme. This is enshrined in the Members Operating Agreement, along with the Code of Practice which signposts members to legal compliance and best practice. This is a self-regulatory scheme, which comes atno additional cost to members.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Requirement** | **Legal or Guidance**  | **Self-catering**  | **B&B**  | **Additional Comments**  |
| Property Evaluation – General risk assessment to create a safe environment  | G | Y | Y | Identify potential Hazards for guests and employees and precautions to ensure safety  |
| Gas Safety Certificate | L | Y | N | Landlords are required to ensure gas appliances are safe and have a gas safety check by a Gas Safe Engineer. Certificate must be renewed annually. |
| Fire Safety and Mains Wired Smoke Alarms  | L | Y | Y | The Fire (Scotland) Act 2005 (‘the 2005 Act’): Requires all commercial premises to conduct a fire risk assessment and put in place appropriate mitigations. It is all accommodation providers’ legal obligation to comply, regardless of whether they are amateur or professional hosts.The Scottish Fire and Rescue Service (‘SFRS’) is the enforcing authority. [[82]](#footnote-82)There is different compliance for B&Bs and self-catering, and indeed different sizes of properties, proportionately reflecting the different accommodation models. |
| Carbon Monoxide Alarms  | L | Y | Y | CO detectors must comply with BS EN 50291-1+A1:2002 Hard-wired or wireless installations - applicable European directives. |
| Food safety hygiene  | L | N/A | Y | Businesses serving food (including breakfasts) must comply with [food safety legislation](https://www.foodstandards.gov.scot/business-and-industry/safety-and-regulation/regulation-legislation/general-food-law) |
| Electrical safety  | L | Y | N | From December 2015 Scottish landlords need an Electrical Installation Condition Report (EICR) for new tenancies: a check of the fixed wiring in the property (which lasts 5 years). Holiday home owners have a legal obligation to ensure that electrical appliances are in safe condition for the use of guests. The Electricity at Work Regulations 1989 recommends that every electrical installation is subjected to periodic inspection and testing[[83]](#footnote-83).  |
| Portable Appliance testing (PAT Testing) | G | Y | N | Landlords are legally required to have PAT testing carried out on any electrical appliances provided in a property (including ovens, fridge freezers and other white goods). There is no legal requirement for holiday home owners, but annual PAT testing is best practice and recommended by the ASSC.  |
| Legionella risk assessment  | G | Y | N | As a provider of self-catering accommodation, you must ensure that the risk from exposure to legionella in your premises is properly controlled. To that end it is advised that you identify and assess the risk from exposure to legionella to your own staff, guests and customers, and any other people working in your premises, and introduce appropriate measures to control any risk. It is also advised that you review your legionella risk assessment annually. Spa pools and hot tubs pose a significant risk of legionella and owners of properties with a spa pool or hot tub must carry out a legionella risk assessment and implement safety measures[[84]](#footnote-84).  |
| Furniture and furnishings  | L | Y | Y | The Furniture and Furnishings (Fire) (Safety) Regulations 1988 apply to all self-catering properties: holiday homeowners must ensure that furniture supplied in the property is safe. Boshers Ltd have a useful blog post on [Fire Safety of Furniture and Furnishings in your Holiday Home](http://www.boshers.co.uk/blog/health-and-safety-guidance/fire-safety-of-furniture-and-furnishings-in-your-holiday-home/). |
| Covid-19 Cleaning Guidelines | G | Y | Y | Self-Catering and B&B accommodation have protocols in place to ensure hygiene and minimise risk[[85]](#footnote-85), endorsed by the Scottish Government.  |
| Control of substances hazardous to health  | G | Y | N | If you provide cleaning products such as bleach and oven-cleaner in the house, or store chemicals for the swimming pool or hot tub on site, it’s good practice to complete a [COSHH](http://www.hse.gov.uk/coshh/index.htm) (Control of Substances Hazardous to Health) assessment.  |
| Certification and Assessment Schemes  | G | Y | Y | There are Quality Assurance schemes that operators can sign up to, such as Quality in Tourism, (Safe, Clean and Legal scheme)[[86]](#footnote-86). ASSC recommends that members sign up to this scheme to ensure compliance.  |
| Accessibility and non-discrimination  | L  | Y | Y | These requirements apply under the Equality Act 2010 (for example, this requires businesses to accept any lawful enquiry that can pay)  |
| Code of Conduct for Short-Term Letting Operators and/or their Agents | G | Y | N | The ASSC Code of Conduct[[87]](#footnote-87) was developed alongside the Scottish Government Expert Panel on the Collaborative Economy. It comes with a Policy Recommendation Paper, which sets out how the vital self-catering sector in Scotland can be improved for customers, hosts, and all others involved.  Members of the Short-Term Accommodation Association (STAA) also sign up to an equivalent Code of Conduct[[88]](#footnote-88). These members include online platforms.  |
| Energy Performance Certificate (EPC-12) | L | Y | N | Self-catering properties must have an EPC[[89]](#footnote-89). An EPC is not required where only a room within a building (such as a B&B. |
| Repairing Standard | L | N | N | The Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019: holiday lets were formally exempted from this legislation, after much discussion with the Scottish Government. B&Bs are also exempt. |
| Private Water Supplies | L | Y | Y | Private Water Supplies (Regulations) 2006: You must notify Environmental Health when letting a property on a self-catering basis so that they can test the water to check that it is safe for guests. You must display the Drinking Water Supply Important Information Poster which can be obtained from your local Environmental Health office. You must provide details of the supply in publicity information or correspondence which is accurate and does not mislead guests.  |
| Insurance | G | Y | Y | Holiday let insurance is specialist insurance that covers holiday homes that are let to paying guests as well as friends and family on a short-term basis. Policies typically cover public liability, accidental damage, loss of rent as well as periods when the property is unoccupied. A standard home insurance policy is not sufficient to cover a holiday let. |
| Anti-social Behaviour | L | Y | N | Existing powers are available to local authorities. This includes Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004. The Scottish Government introduced the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 that granted local authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use.  |
| PPL PRS[[90]](#footnote-90) |  |  |  | Under the Copyright, Designs and Patents Act 1988, permission is needed from the relevant copyright holders – those who create, record and publish music – in order to play or perform music in public.Broadly speaking, this includes any presentation of music outside of a domestic setting. For example, it will include using music in the following ways as part of your business or organisation (for the benefit of customers and/or employees): playing recorded music via any device, including the radio; TV broadcasts, or other audio-visual content, containing music; or putting on live performances of music. |
| MPLC[[91]](#footnote-91) |  |  |  | A licence is required regardless of whether an admission fee is charged. |
| Maximum Occupancy |  |  |  | Plans will have to be drawn up by an architect, with significant and unnecessary costs attached.  |
| Listings |  |  |  | Time will be required to keep listings updated. |

**ANNEX 3: COST OF COMPLIANCE**

* The updated Business and Regulatory Impact Assessment (BRIA) submitted by the Scottish Government as part of the 2020 Licensing Order Consultation was a distortion of the reality faced by the majority of small and micro STL operators in remote rural areas.
* The miscalculation of mandatory licence conditions compliance costs is seriously flawed as to be dishonest. The BRIA calculates the total of annually recurring and one-off compliance costs to be circa £963.00 in Year 1. The actual costs paid for a two-bedroom holiday let on Skye, for example, are £3420.00 with £1750.00 of that recurring on an annual basis. The Scottish Government have therefore underestimated the real costs by 72%. The implications that this then has for the affordability of additional licensing costs for the vast majority of micro-operators in the Highlands and Islands, with a turnover of under £20,000 a year, is hugely significant.
* It is important to include the cost of administration associated with new licensing requirements. Hours must be recognised as a cost of compliance, and charged appropriately, at National Living Wage as a minimum.
* Excluding these mandatory condition costs, efficient operators can expect to shoulder fixed costs, including part time cleaning, maintenance and garden contracts, laundry, cleaning materials and other consumables, heat, light, broadband, TV licensing and provision, and other sundries, for a two bedroomed property with an average rural area occupancy of 45%, as a minimum of 50% of takings. Take away the compliance costs and add an annualised license fee on top and the gross profit will be less than 25% of turnover, before tax and other fees.
* ASSC Member, October 2020*: “It’s not worth it, and the inexorable rise in costs, the total lack of certainty about what those costs will be, uncertainty as to whether or not we’ll be granted a licence, whether we will have to refund bookings if we don’t, and general inability to plan means that we will put our much-loved home on the market as soon as we know what’s happening and relocate to somewhere that values our presence. To be clear, we already have two prospective purchasers, one being resident abroad and another being a wealthy English family. Both would want our property purely as a holiday home and will leave it empty 44 weeks of the year. Given that we have no idea what additional restrictions and taxes on second home purchases will be imposed on us or prospective purchasers in the future it would be utterly stupid to reject their advances.”*
* In November 2021, the ASSC undertook a snap membership survey into the cost of existing compliance with regulations. In 22 hours, the survey generated **336 responses from businesses in 26 out of 32 local authorities**. 53% were from members of the ASSC and 47% responses were from non-members. The survey closed at 5pm on 8th November.
* The key findings were as follows:
* The vast majority of respondents identified that they came from rural areas / islands (81%).
* 75% or respondents report turnover of under £50k per annum, and 43% under £20k per annum.
* The June 2021 BRIA calculated the total compliance costs to be circa **£963.00**.
* Real costs identified by operators are three times those identified in the BRIA, illustrating an **average cost of £2,969**. This will, of course, vary according to urban / rural / remote / island operations.
* The costs identified in this survey do not include additional costs for ‘Information to be Displayed’, plans to show ‘maximum occupancy’, and other new costs associated with the proposed licensing regime.
* 76% of respondents’ report increases in operating costs of between 11-75%. The key driver is the pandemic in terms of additional cleaning times, operators leaving fallow days to ensure guests safety, the cost of materials and labour, extra linen costs, plus the need for relaxed cancellation policies.
* The cost of doing business generally has risen exponentially since the pandemic. One member commented: *“Gas bills have increased by 18%. Electricity bills have increase by 15%. Insurance has increased by 15% and cover has reduced.”*
* The revised BRIA should reference real and real-time costs. In the same way that scraped data is not accurate, nor are price comparison websites or outdated resources. In addition, there should be reference to, and cognisance of, the additional costs incurred by rural and remote locations in terms of call out charges, labour and increased material charges.
* The ASSC urges the Scottish Government to undertake a real impact assessment of the proposed legislation on the sector, collaborating with operators who can provide real figures associated with business and compliance costs, prior to any further discussion.

**ANNEX 4: LOCAL AUTHORITY RESPONSES FROM 2020 SHORT-TERM LET CONSULTATION**

**COSLA**

*“It will be necessary to understand the administrative burden that this may place on local authorities and how this will be resourced.”*[[92]](#footnote-92)

**Aberdeen City Council**

*“We believe that the 12-month lead-in time to establish our Short-term Let regime will be resource intensive and there will be no ability to recruit additional staff when resources aren’t available until licence applications are submitted and fees paid. This poses staffing issues for the council. Consequently, we believe that the Scottish Government should fund the start-up costs.”*[[93]](#footnote-93)

**Borders Council**

*“…it is considered essential that Scottish Government provide specific funding for additional resources required by LA’s to cover the initial set up costs, including the transitional and compliance elements of the new legislation.”*[[94]](#footnote-94)

**Comhairle nan Eilean Siar**

*“We have no indication of what the full impact of any COVID-19 fallout will be as the situation is ongoing. Economic recovery may be protracted and we may be dependent on our Tourism Sector to inject life into our economy. Providing us with as much flexibility as possible with regard to regulations would help us in the long term.”*

*“The evidence gathering, consultation and mechanism to set up a control area will require resourcing, finance and additional staff time to deal with retrospective planning applications where these are required during the transitional period. This legislation will have significant implications for both Development Plans & Development Management, ever diminishing teams against a background of annual budget cuts.*

*The issue of enforcing regulations and the extra work this will entail is likely to fall on Planning and Licencing staff. In the current climate, the Comhairle is undergoing consultations on cuts that will need to be made to balance support given during lockdown. There is no budget available currently for the recruiting and training of staff and although it is anticipated that potential fees will pay for any staff, there is an initial outlay required, which has not been planned for in budgets. We propose an initial start-up grant or loan from Scottish Government.

Each application would require due consideration and income from planning fees for Change of Use, at current levels, would be unlikely to cover additional staff time for this work.”*

*“Paragraph 6.4 all local authorities must have a live licencing scheme open to receive licensing applications by 1 April 2022.
• There are 18 months until this needs to be in place, and probably about 12 months once we know the outcome of this consultation and see guidance in the spring. There are policies to be written, consultations to be carried out with public and stakeholders, committees to seek approval from, staff to be employed and trained etc. We are still working from home and under restriction, and with the best will in the world, 18 (or 12) months to get everything underway, when we don’t know what is happening with our workplace, or indeed the way we are working, seems ambitious.”*[[95]](#footnote-95)

**Glasgow City Council**

*“It is anticipated that there will be significant resourcing issues for the Local Authority in setting up a licensing scheme. Significant staff resourcing for set of scheme/verification process/carrying out inspections/enforcement etc. would be required.”*[[96]](#footnote-96)

**Highland Council**

*“The new regulatory responsibility of both licensing and control areas are anticipated to have significant, budgetary and regulatory impacts on the Highland Council; invoking responsibilities in relation to the status and safety of a very large number of properties across a dispersed geographical area…”*

*Highland Council also estimate that they could receive as much as “10,000 potential applications” on licensing and that while the “scheme permits a phased approach over a 3-year period but this will still present considerable administrative and operational undertaking for dealing with the initial applications. Ongoing resource will then be needed for renewals and new premises.*

*The workload will necessitate additional staff for the following teams:*

 *• Licensing team - additional administrative licensing staff
• Planning team – additional full-time posts (professional support officers) for a two-year period. There would still be resource required after this two-year period to cover new and renewed licence enquiries, however this is anticipated to be at a much lower level.
• Environmental Health additional full-time posts (technical officers) for a two-year period. There would still be resource required after this two-year period to cover new and renewed licence enquiries, however this is anticipated to be at a much lower level.
• ICT systems – a review of the on-line tools to enable self-service and on-line payments to streamline the application and payment process.”*[[97]](#footnote-97)

**North Ayrshire Council**

*“Councils are to set up a new system, complete with new conditions and an inspection system involving Housing, Protective Services and Planning by 1 April 2022 at the latest. This would be a substantial task at any time, but it is particularly onerous when Council staff, working remotely, are facing increased demands to provide services to the public due to the coronavirus pandemic and Councils are facing unprecedented challenges, particularly with regard to licensing due to the coronavirus pandemic.

(a) if premises are to be inspected, Council staff must be available for this;
(b) Council staff are already having to work under pressure as the Coronavirus restrictions are regularly changed. In the case of STLs, where there are objections or representations to Licence Applications, delegated powers are not available to Council officers and the Application must be considered by the Licensing Committee. If there are to be around 327 Applications in North Ayrshire, then a portion of them will need a 'virtual hearing' compliant with ECHR 6. This would place a burden on Licensing Authorities at a time when they are least able to bear it.

2.2. Although Councils will be able to choose when the licencing scheme will start locally, it must be within 12 months after 1 April 2021.

2.3. The new STL system commences at most 18 months away, and Councils have not seen the secondary legislation on which the new system will be based. It will be laid in Parliament in December 2020 and has not been issued in draft. It has not been stated whether Application forms and other documentation will be prescribed, or whether they are to be drafted by individual Councils.”*[[98]](#footnote-98)

**South Ayrshire Council**

*“…there is an element of concern regarding the proposed lead in time for implementation of a robust licencing regime, the resources this will require and the added pressure to workloads required of staff and services.”*[[99]](#footnote-99)

**Stirling Council**

*“The implementation, management and enforcement of the [licensing] process is considered particularly resource intensive for local authorities, with little guidance given around who would be expected to lead the process.”*[[100]](#footnote-100)

**West Dunbartonshire Council**

*“For smaller authorities with fewer short term let premises it may be difficult to fully resource an effective and efficient service without the fees being very high and thereby creating a wide and varying fee structure across the country. There is a concern about the level of Fees that a smaller Local Authority may charge where they are not dealing with a large volume of applications and have limited resources to deal with such applications. The fee structure may not be of a sufficient level to meet resource concerns and the adverse comparisons by the public as to differing fee structures around the country as can happen in Civic Government Licensing.”*[[101]](#footnote-101)

1. <https://www.assc.co.uk/wp-content/uploads/2021/08/Economic-Impact-Study-%E2%80%93Scotland-Report.pdf> [↑](#footnote-ref-1)
2. This is evident in both the Scottish Government’s BRIA accompanying their licensing proposals, as well as City of Edinburgh Council’s plans for a short-term let control area. [↑](#footnote-ref-2)
3. For further information on housing issues, please consult: <https://www.assc.co.uk/policy/housing-and-short-term-lets-in-scotland-the-facts/> [↑](#footnote-ref-3)
4. Our response to City of Edinburgh Council’s proposal for a city-wide Control Area can be accessed here: <https://www.assc.co.uk/assc-submission-to-edinburgh-city-council-short-term-let-control-area-consultation-response/> [↑](#footnote-ref-4)
5. Parliamentary Answer S5W-34474. Url: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-34474&ResultsPerPage=10> [↑](#footnote-ref-5)
6. <https://www.mygov.scot/home-based-business/regulations> [↑](#footnote-ref-6)
7. <https://www.mygov.scot/non-domestic-rates-guidance/self-catering-and-holiday-lets> [↑](#footnote-ref-7)
8. <https://www.argyll-bute.gov.uk/sites/default/files/self_catering_safety_nov13.pdf> [↑](#footnote-ref-8)
9. <https://www.assc.co.uk/tourism-accommodation-business-survey/> [↑](#footnote-ref-9)
10. Scottish Government, *Short-term lets - licensing scheme and planning control area legislation: draft business and regulatory impact assessment* (BRIA) (2021), p6. Url: <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2021/06/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria/documents/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation/govscot%3Adocument/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation.pdf> [↑](#footnote-ref-10)
11. <https://www.gov.scot/publications/short-term-lets-licensing-order-update-letter-from-cabinet-secretary-LGHP-committee/> [↑](#footnote-ref-11)
12. <https://www.assc.co.uk/tourism-accommodation-business-survey/> [↑](#footnote-ref-12)
13. <http://www.legislation.gov.uk/asp/2005/16/contents> [↑](#footnote-ref-13)
14. <https://www.argyll-bute.gov.uk/law-and-licensing/licensing-standards> [↑](#footnote-ref-14)
15. <http://www.legislation.gov.uk/ssi/2007/553/contents/made> [↑](#footnote-ref-15)
16. <https://www.townheadhotel.co.uk> [↑](#footnote-ref-16)
17. <https://www.lochmelfort.co.uk> [↑](#footnote-ref-17)
18. <https://bespokehotels.com/arrocharhotel/> [↑](#footnote-ref-18)
19. <https://www.scotsman.com/business/crerar-hotels-unveils-new-self-catering-site-at-glencoe-inn-3333395> [↑](#footnote-ref-19)
20. Scottish Government, *Short term lets - licensing scheme part 1: guidance for hosts and operators* (2021), p15. Url: <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/06/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators/documents/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators/govscot%3Adocument/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators.pdf> [↑](#footnote-ref-20)
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23. This was estimated by the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) during the stakeholder discussions at the Short-Term Let Working Group. [↑](#footnote-ref-23)
24. Page 10, Supplementary Guidance for Local Authorities [↑](#footnote-ref-24)
25. Page 13, Supplementary Guidance for Local Authorities [↑](#footnote-ref-25)
26. Page 24, Supplementary Guidance for Local Authorities [↑](#footnote-ref-26)
27. <https://www.gov.scot/publications/short-term-lets-licensing-order-update-letter-from-cabinet-secretary-LGHP-committee/> [↑](#footnote-ref-27)
28. <https://betaproxy2.parlamaid-alba.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-03023> [↑](#footnote-ref-28)
29. Page 29, Supplementary Guidance for Local Authorities [↑](#footnote-ref-29)
30. <https://www.assc.co.uk/over-provision-opinion-of-counsel/> [↑](#footnote-ref-30)
31. Summary by Joanna Millar, Legal Director at Gilson Gray LLP [↑](#footnote-ref-31)
32. <https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-2-supplementary-guidance-licensing-authorities-letting-agencies-platforms/documents/> [↑](#footnote-ref-32)
33. <https://www.assc.co.uk/the-booking-problem/> [↑](#footnote-ref-33)
34. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=540&uuId=448461141> [↑](#footnote-ref-34)
35. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=600&uuId=246870012> [↑](#footnote-ref-35)
36. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=660&uuId=673652465> [↑](#footnote-ref-36)
37. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=300&uuId=903862775> [↑](#footnote-ref-37)
38. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=600&uuId=472337303> [↑](#footnote-ref-38)
39. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=perth&uuId=79592235> [↑](#footnote-ref-39)
40. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=720&uuId=9683015> [↑](#footnote-ref-40)
41. <https://consult.gov.scot/housing-and-social-justice/short-term-lets-draft-licensing-order-and-bria/consultation/view_respondent?_b_index=360&uuId=526916605> [↑](#footnote-ref-41)
42. See here for the full text of the motion and further details: <https://scottishtourismalliance.co.uk/tourism-bodies-back-highland-council-opposition-to-short-term-let-licensing/> [↑](#footnote-ref-42)
43. <https://www.edinburghlive.co.uk/news/holiday-home-licensing-branded-control-21900975> [↑](#footnote-ref-43)
44. Stephen McGowan is the author of Local Government Licensing Law in Scotland (2012), the only legal textbook on the Civic Government (Scotland) Act 1982 – under which the new licensing schemes will be adopted. [↑](#footnote-ref-44)
45. <https://www.assc.co.uk/potential-flood-of-licensing-applications-for-short-term-lets-in-glasgow/> [↑](#footnote-ref-45)
46. <https://www.scottishlegal.com/article/licensing-expert-warns-of-flood-of-short-term-let-licences-1> [↑](#footnote-ref-46)
47. <https://www.lawscot.org.uk/members/journal/issues/vol-65-issue-02/system-overload-licensing-short-term-lets/> [↑](#footnote-ref-47)
48. <https://www.lawscot.org.uk/media/363183/19-07-19-plan-lic-short-term-lets.pdf> [↑](#footnote-ref-48)
49. <https://www.lawscot.org.uk/media/369667/20-10-16-plan-lic-consultation-short-term-lets-regulations.pdf> [↑](#footnote-ref-49)
50. <https://www.lawscot.org.uk/media/371436/2021-08-13-lic-short-term-lets-consultation-on-draft-licensing-order-and-business-and-regulatory-impact-assessment_-1.pdf>, p4 [↑](#footnote-ref-50)
51. Parliamentary Answer S5W-34589. Url: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-34589&ResultsPerPage=10> [↑](#footnote-ref-51)
52. <https://yourviews.parliament.scot/session-5/local-gov-sustainability-covid/> [↑](#footnote-ref-52)
53. <https://yourviews.parliament.scot/session-5/local-gov-sustainability-covid/consultation/download_public_attachment?sqId=question-2020-06-10-3171498657-publishablefilesubquestion&uuId=804853480> [↑](#footnote-ref-53)
54. Medium Term Financial Plan- Update 28th October 2021: <https://www.highland.gov.uk/download/meetings/id/78893/9_medium_term_financial_plan_-_update> [↑](#footnote-ref-54)
55. See here for more information: <https://www.assc.co.uk/2021-short-term-let-consultation-responses/> [↑](#footnote-ref-55)
56. Email from Barry McCulloch, Head of Policy (Scotland), 13th December 2021 [↑](#footnote-ref-56)
57. Kevin Stewart MSP quoted in Scottish Parliament., *Official Report*, 08/11/17. Url: <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=11177> [↑](#footnote-ref-57)
58. *Ibid* [↑](#footnote-ref-58)
59. Shona Robison MSP, in answer to Parliamentary Question S6W-03022, 01/10/21. Url: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S6W-03022&ResultsPerPage=10> [↑](#footnote-ref-59)
60. Shona Robison MSP, in answer to Parliamentary Question S6W-03021, 29/09/21. Url: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S6W-03021&ResultsPerPage=10> [↑](#footnote-ref-60)
61. Further information on the FOIs are available from the ASSC on request. [↑](#footnote-ref-61)
62. <https://www.gov.scot/publications/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria/pages/2/> [↑](#footnote-ref-62)
63. <https://www.parliament.scot/~/media/committ/1771> [↑](#footnote-ref-63)
64. This can be accessed here: <https://www.assc.co.uk/policy/assc-response-to-third-scottish-government-short-term-lets-consultation/> [↑](#footnote-ref-64)
65. <https://www.gov.scot/publications/short-term-lets-licensing-scheme-planning-control-areas-consultation-analysis/documents/> [↑](#footnote-ref-65)
66. <https://www.assc.co.uk/policy/covid-19-assc-business-support-surveys-2/> [↑](#footnote-ref-66)
67. Other responses included three-way partnerships, 70/30 female/male, whole business 50/50 but self-catering element female [↑](#footnote-ref-67)
68. <https://www.assc.co.uk/short-term-lets-vital-for-sustainable-tourism-in-scotland/> [↑](#footnote-ref-68)
69. Letter to Cabinet Secretary for Housing from Scottish Tourism Alliance, 30th September 2021 [↑](#footnote-ref-69)
70. <https://scottishtourismalliance.co.uk/wp-content/uploads/2020/03/Scotland-Outlook-2030.pdf> [↑](#footnote-ref-70)
71. <https://scottishtourismalliance.co.uk/wp-content/uploads/2020/10/Tourism-Task-Force-recovery-plan.pdf> [↑](#footnote-ref-71)
72. <https://scottishtourismalliance.co.uk/wp-content/uploads/2020/10/Tourism-Task-Force-recovery-plan.pdf> (page 32) [↑](#footnote-ref-72)
73. <https://www.gov.scot/binaries/content/documents/govscot/publications/agreement/2021/12/principles-agreement/documents/principles-agreement-between-scottish-government-business/principles-agreement-between-scottish-government-business/govscot%3Adocument/principles-agreement-between-scottish-government-business.pdf?forceDownload=true> [↑](#footnote-ref-73)
74. <https://www.assc.co.uk/wp-content/uploads/2021/08/ASSC-Consultation-Response-13.8.21.pdf>, page 14-17 [↑](#footnote-ref-74)
75. <https://www.assc.co.uk/parliamentary-questions-housing/> [↑](#footnote-ref-75)
76. This is evident in both the Scottish Government’s BRIA accompanying their licensing proposals, as well as City of Edinburgh Council’s plans for a city-wide short-term let control area. [↑](#footnote-ref-76)
77. For instance, see ASSC*, Far More Than Just Houses: The Benefits of Short-Term Rental in Scotland* (2018). Url: <https://www.assc.co.uk/wp-content/uploads/2018/06/MoreThanJustHouses.pdf>; and ASSC, *Forward Together: A Collaborative Approach to Short-Term Letting* (2020). Url: <https://www.assc.co.uk/wp-content/uploads/2020/12/2020_ForwardTogether.pdf> [↑](#footnote-ref-77)
78. <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2021/06/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria/documents/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation/govscot%3Adocument/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria-consultation.pdf> [↑](#footnote-ref-78)
79. Airbnb, *Short-term Lets Registration White Paper* (2021). Url: <https://news.airbnb.com/wp-content/uploads/sites/4/2021/06/UK_RegistrationWhitepaper_2021.pdf?_ga=2.58889198.2135609438.1634834161-1390504533.1634834161> [↑](#footnote-ref-79)
80. Parliamentary answer to S6W-02111. Url: <https://www.parliament.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-02111> [↑](#footnote-ref-80)
81. Parliamentary answer to S6W-02109. Url: <https://www.parliament.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-02109> [↑](#footnote-ref-81)
82. <https://www.gov.scot/publications/practical-fire-safety-guidance-existing-premises-sleeping-accommodation/> [↑](#footnote-ref-82)
83. <https://www.hse.gov.uk/pubns/indg231.pdf> [↑](#footnote-ref-83)
84. [www.hse.gov.uk/legionnaires/spa-pools.htm](http://www.hse.gov.uk/legionnaires/spa-pools.htm) [↑](#footnote-ref-84)
85. <https://www.assc.co.uk/policy/cleaning-protocols-for-self-catering-properties-in-the-context-of-covid-19/> [↑](#footnote-ref-85)
86. <https://www.qualityintourism.com/quality-assessment/safe-clean-and-legal> [↑](#footnote-ref-86)
87. <https://www.assc.co.uk/policy/code-of-conduct/> [↑](#footnote-ref-87)
88. [https://static1.squarespace.com/static/592576e4b8a79b7c470261cb/t/5e7b83e9223c2f20ac35c9d8/1585153001941/STAA+code+of+conduct+-+June+2019.pdf](https://static1.squarespace.com/static/592576e4b8a79b7c470261cb/t/5e7b83e9223c2f20ac35c9d8/1585153001941/STAA%2Bcode%2Bof%2Bconduct%2B-%2BJune%2B2019.pdf) [↑](#footnote-ref-88)
89. <https://www.gov.scot/publications/energy-performance-certificates-for-holiday-lets-guidance/> [↑](#footnote-ref-89)
90. <https://www.googleadservices.com/pagead/aclk?sa=L&ai=DChcSEwil5v7y-4T0AhWRuu0KHeGqD1cYABAAGgJkZw&ae=2&ohost=www.google.com&cid=CAESQOD2B_vfMcJThw4lerUmXRT28Y98i4UQJ-RTSeBcCsFzh6TfhPgbkmK5El8n_lM_Cru7yWjw7fJgYuwZN-DfzcI&sig=AOD64_0uMb3R5IK-mF_3QouvRk5ERwNKtQ&q&adurl&ved=2ahUKEwix0ffy-4T0AhVTSsAKHUieD2IQ0Qx6BAgCEAE&dct=1> [↑](#footnote-ref-90)
91. <https://www.themplc.co.uk> [↑](#footnote-ref-91)
92. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=900&uuId=552786991> [↑](#footnote-ref-92)
93. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=480&uuId=738532527> [↑](#footnote-ref-93)
94. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=borders&uuId=648059965> [↑](#footnote-ref-94)
95. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=780&uuId=458288928> [↑](#footnote-ref-95)
96. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=900&uuId=52867059> [↑](#footnote-ref-96)
97. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=840&uuId=880423694> [↑](#footnote-ref-97)
98. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=780&uuId=560815682> [↑](#footnote-ref-98)
99. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=900&uuId=900902345> [↑](#footnote-ref-99)
100. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?_b_index=900&uuId=465853950> [↑](#footnote-ref-100)
101. <https://consult.gov.scot/housing-services-policy-unit/short-term-lets-licensing-scheme/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&_q__text=West+Dunbartonshire+Council&uuId=124670121> [↑](#footnote-ref-101)