

## **Rebuttal of Evidence Provided by Witnesses on 14<sup>th</sup> December 2021**

The opinions provided on 14<sup>th</sup> December to the Local Government, Housing and Planning Committee - for that is all they were; certainly not evidence - were extremely shocking both in terms of tone and content. The blatant hostility and antipathy levelled at small tourism accommodation providers was astonishing to behold. The self-confessed lack of evidence from supporters of the legislation provides nothing to back up their position, and yet is being given equal weight to the hard data and evidence provided by industry.

The Association of Scotland's Self Caterers (ASSC) has received numerous comments from members across Scotland expressing their shock at the vitriol expressed by the witnesses towards small tourism accommodation owners. These are micro businesses caught up in the perfect storm of the damaging economic impact of COVID, in an already fragile rural economy – and now impacted by regulations whose aim has been expressly stated as being to 'manage [them] down'; or, in other words, to put them out of business.

Due to the level of unsubstantiated claims, generalisations and misrepresentations of our sector, the ASSC were compelled to provide a rebuttal so that the Committee have a full appreciation of the facts.

**Further to its consultation responses, as well as written evidence to the LGHP Committee, the ASSC has provided evidence that short-term let licensing legislation will detrimentally effect thousands of operators, whether self-caterers or indeed home sharers, for no measurable benefit.**

Our key concerns about the evidence provided by witnesses covers seven themes:

1. **Lack of understanding of sector**
2. **Economic Impact**
3. **Lack of data**
4. **Impact on Local Authorities**
5. **Anti-social Behaviour**
6. **Housing**
7. **ASSC's Registration and Exemption Proposal**

### **Summary of Concerns**

- There is a general consensus from witnesses that the vast majority of operators are professional and compliant, yet there is also an assumption that operators are "unscrupulous", "poorly regulated or poorly managed". These contradictory positions cannot hold.
- ASSC members, many of whom have been operating for decades, refute the allegation that the sector is the "Wild West" and that they are "unscrupulous".
- The accusation of drug dealing, sex trafficking and puppy farming is offensive and unsubstantiated.

- The value of the sector has been undermined and witnesses suggest that it provides no value to the Scottish economy or local communities - our businesses will seemingly not be missed.
- Witnesses evidenced a lack of understanding of the traditional accommodation sector or short-term lets, with repeated discussion regarding one online platform as being 'the industry'.
- Witnesses evidenced a lack of understanding of existing regulations - in relation to anti-social behaviour and health and safety, as well as evidencing confusion of what it is the legislation is attempting to address
- There is no evidence or data of the impact of short-term lets on housing
- There is no evidence whatsoever to underpin a "reason of general interest", which is legally required when introducing licensing legislation
- Discussion regarding global corporations and large businesses does not reflect ASSC or Scottish Bed & Breakfast (SBBA) membership – they are micro businesses that have been part of communities for decades
- Contrary to assertions from the panel that industry has fought against regulation, the ASSC proposed registration, transparency and health and safety compliance in 2017
- Witnesses confirmed that the legislation will prove challenging to local authorities
- Only one local authority perspective (Edinburgh, a longstanding supporter of licensing) has been provided as oral evidence, while the Committee's survey results and consultation responses show considerable concern from other local councils about the impact of licensing.
- Toxic comments from witnesses looking at cases in isolation have caused deep concern from professional legitimate businesses across Scotland

For ease of reference, we will use the following short cuts to refer to participants of the meeting:

**CONVENER** Ariane Burgess (Highlands and Islands) (Green) **AB**

**DEPUTY CONVENER** Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP) **EW**

#### **COMMITTEE MEMBERS**

- Miles Briggs (Lothian) (Con) **MB**  
Willie Coffey (Kilmarnock and Irvine Valley) (SNP) **WC**
- Meghan Gallacher (Central Scotland) (Con) **MeghanG**
- Mark Griffin (Central Scotland) (Lab) **MarkG**

## WITNESSES

- Tony Cain (Association of Local Authority Chief Housing Officers) **TC**
- Andrew Mitchell (City of Edinburgh Council) **AM**
- Ailsa Raeburn (Community Land Scotland) **AR**
- Chief Inspector Nicola Robison (Police Scotland) **NR**
- Leon Thompson (UK Hospitality) **LT**

<p><b>AB:</b> Will the proposed short-term let licensing system be effective in tackling the negative impacts of some short-term lets on neighbours and communities? Also, do local authorities require overprovision powers?</p>	<p><b>AR</b> welcomed that the legislation would support health and safety and bring short-term lets in line with private landlords. <b>AR</b> stated that <i>“the sector is largely unregulated”</i>.</p>
	<p><b>Small accommodation businesses are already regulated in terms of health &amp; safety.</b> The Scottish Government has concurred with industry that self-catering businesses and B&amp;Bs have legal obligations to comply with existing health and safety legislation, with the then Minister Kevin Stewart responding stating that <i>“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&amp;B operators, will already be following these standards as a matter of compliance with existing law or best practice”</i>.<sup>1</sup></p> <p>In a letter from the Cabinet Secretary for Social Justice, Housing and Local Government to this Committee on 7<sup>th</sup> October 2021, Ms Robison outlined changes to the licensing scheme: <i>“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”</i><sup>2</sup>. 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. <b>See page 3 of ASSC written evidence.</b></p>
	<p>The ASSC attests that the definition arrived at by the Scottish Government, and witnesses at this session, certainly does not reflect the professional members of the ASSC, SBBA and other professional</p>

<sup>1</sup> Parliamentary Answer S5W-34474. Url: <https://archive2021.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-34474&ResultsPerPage=10>

<sup>2</sup> <https://www.gov.scot/publications/short-term-lets-licensing-order-update-letter-from-cabinet-secretary-LGHP-committee/>

	organisations who are 'committed to quality'. <b>The 2019 consultation failed to provide a definition of short-term letting.</b> There was a lack of differentiation between traditional models of accommodation ('businesses') and collaborative economy platform models which has led to where we find ourselves today <sup>3</sup> .
	<b>AR</b> welcomed the ability for neighbours to object to a short-term let, whilst appreciating that there are already two methods to address any issues: existing anti-social behaviour legislation and planning.
	Local authorities 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 8 <sup>th</sup> November 2017. He said that councils had <i>"quite comprehensive powers to deal with antisocial behaviour and noise nuisance"</i> , before noting that <i>"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."</i> <sup>4</sup> This legislation pertains to the owner of the property and if guests persist in anti-social behaviour, the property can be 'closed down'. <b>AR's</b> evidence shows a lack of understanding of the parameters of the legislation. She also admits that planning authorities are already overburdened. <b>See page 17 of ASSC written evidence.</b>
	<b>AR</b> contested that natural names should be disclosed
	<b>Legitimate businesses are fully transparent</b> – self-caterers are listed publicly on the non-domestic rates roll and B&Bs are obliged to be registered with local authority Environmental Health departments.
	<b>AR</b> was clear that overprovision should be re-introduced, and claimed that <i>"Planning control area orders will not address the issues around overprovision"</i> , and that the <i>"overprovision policy needs to be reintroduced into the legislation and the licensing scheme to give local communities and local authorities the ability to control the number of short-term lets in very specific areas where they are causing a problem."</i>
	On 7 <sup>th</sup> October 2021, the Cabinet Secretary for Housing wrote to the Scottish Government's Local Government, Housing and Planning Committee <sup>5</sup> setting out changes to their licensing legislation and guidance. The changes included <b>removing overprovision powers</b> . She added: <i>"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"</i> . <sup>6</sup> We endorsed the decision to remove

<sup>3</sup> <https://www.assc.co.uk/fundamental-flaws-in-the-underpinning-research-indigo-house-group-2017-2019/>

<sup>4</sup> Kevin Stewart MSP quoted in Scottish Parliament., *Official Report*, 08/11/17. Url: <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=11177>

<sup>5</sup> <https://www.gov.scot/publications/short-term-lets-licensing-order-update-letter-from-cabinet-secretary-LGHP-committee/>

<sup>6</sup> <https://betaproxy2.parlamaid-alba.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-03023>

	<p>overprovision from the licensing regime, which was a duplication with planning policy. <b>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.</b> We are concerned that the short-term let licensing regulations – which are supposedly intended to focus on health and safety – are still being discussed within the context of housing, a fact reflected in the questions asked and evidence sessions of 7<sup>th</sup> and 14<sup>th</sup> December 2021. <b>See page 8 of ASSC written evidence.</b></p>
	<p>We await clarification from the Scottish Government as to how shrinking the short-term let sector will result in houses being returned to the property market for either purchase, or the letting market for rent, at prices that makes those homes affordable for the local population of communities across Scotland. Given that we have not had clarification over the last 5 years, we can only assume that the Scottish Government is unable to answer that question.</p>
<p>AB: What are your views on the changes that were made to the draft licensing order from the version that was presented to our predecessor committee in February?</p>	<p><b>TC</b> stated that “there is nothing in the licensing regime or the planning provisions that will allow for the number of short-term lets in an area to be actively managed down”. He was not content that the legislation will reduce the number of short-term lets and mentioned speaking to “one member of the community [and] others in the most pressured areas who say the same thing.</p>
	<p>See above regarding overprovision and the policy objective.</p>
	<p><b>TC</b> shared concerns that the Scottish Government may “<i>set out an average fee and provide stricter guidance around the use of inspections is, frankly, inappropriate</i>”. He mentioned that “<i>The issues vary so dramatically ward by ward and area by area that I do not think that it is possible for the Government to make properly flexible guidance at that level, and it should be a matter for councils to manage those issues</i>”.</p>
	<p>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 <b>£1,500 to £2,000</b>, which would be crippling to small businesses.<sup>7</sup> <b>See page 7 of ASSC written evidence.</b></p>
	<p>Local authorities will be unable to set fees when they have no idea how many premises are to be licenced.</p>
	<p><b>AB:</b> “<i>What would we need to do to manage down the levels of short-term lets</i>”</p> <p><b>TC:</b> “<i>I think we need to go through a process of removing licences and permissions to operate. People will say we can’t do that. These are their businesses - and I was thinking about this earlier; we regularly prohibit activities that were previously unregulated. And this is one of those areas. Ten years ago there</i></p>

<sup>7</sup> 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.

	<b><i>was no such thing as a short-term let. It has taken ten years to get to a place where we understand how to manage and the risks of unmanaged short-term lets. We simply now need to select those that can no longer operate".</i></b>
	In response to this ludicrous point, we note the written evidence from the Professional Association of Self-Caterers: <i>"On the basis that professional, traditional, fully regulated self-caterers have co-existed peacefully in communities for decades, if not hundreds of years (far before the collaborative economy, or indeed the Scottish Parliament), can we assume that they will be exempt from this legislation? We cannot be described as STLs in this context. Or are we to assume that the Scottish Government is intent on 'managing down' a sector that is worth £867m to the Scottish economy?"</i>
	<b>LT</b> stated that <i>"the priority for [UKHospitality] is to arrive at a point where all accommodation businesses operate in the same way, follow the same rules and are liable for tax."</i>
	Legitimate businesses are already regulated in terms of health and safety and are compliant with existing tax frameworks (self-catering units are recognised as Furnished Holiday Lets by HMRC). 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. Finally, a separate review of short-term let taxation will be undertaken by the Scottish Government.
	<b>LT</b> welcomed the removal of overprovision and an intention to reduce fees which <i>"would have created a lot of challenges for people running short-term let businesses.... the fees are a major concern for businesses"</i> .
	<b>LT's</b> evidence recognises the damage that this legislation will do to small accommodation providers yet has no evidence for its requirement. <b>See page 3 of ASSC written evidence.</b>
	<b>LT</b> stated that UKHospitality <i>"welcome the fact that we have a thriving short-term let market in Scotland. Competition is always good, and we are not here to stifle it. We support a strong system of regulation so that short-term let businesses fall into line with traditional accommodation providers"</i> .
	Can we therefore assume therefore that traditional self-caterers and B&Bs should fall outwith the legislation? Or is <b>LT</b> seeking a stronger system of regulation for hotels, serviced accommodation etc? <b>See page 5 of ASSC written evidence.</b>
	<b>AR:</b> <i>"To give an example of how an overprovision policy could work, there is the opportunity under the Planning (Scotland) Act 2019 for communities to introduce local place plans together with local authorities. If there was a need for a local overprovision policy, that would be an effective route to do it... there are processes in place for looking at overprovision in a democratic, open, fair and accountable way."</i>

	This suggests that the legislation is not required on the basis of ‘managing down’ the number of short-term lets, given that there are already opportunities to tackle ‘overprovision’. This was supported by the <b>AB</b> ’s response: <i>“Thank you for adding that useful perspective on a tool that communities can use — that is a great point .”</i>
<b>EW</b> : The committee has heard that powers already exist to deal with the illegal or antisocial behaviour that is associated with a small number of short-term lets. Have those powers proved to be effective in practice? I am thinking particularly of the evidence in Police Scotland’s letter. I am concerned about the possibility of women being trafficked across the country into prostitution; I am also worried about county lines drugs activities as well as the potential for puppy farming.	<b>NR</b> stated that <i>“There are powers in existing legislation that we can use. However, we find that those powers have certain limitations”</i> .
	Police Scotland has failed to provide any concrete evidence of human trafficking, drug dealing or puppy farming in either written or oral evidence. The ASSC has, conversely, provided evidence to illustrate the opposite. 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. <sup>8</sup> The ASSC believes that existing anti-social legislation needs to be enforced and if that legislation needs to be amended, then it can be, without new legislation being brought in to improve it. <b>See page 17 and 19 of ASSC written evidence.</b>
	A fit and proper person test can be included in the ASSC’s registration proposals, just as it is with the Landlord’s Register. If it works for long-term landlords, it can work for operators of short-term lets.
	<b>AR</b> welcomed transparency.
	Legitimate businesses are entirely transparent, with 18,000 self-catering units listed on the non-domestic rates roll. The ASSC has offered a solution to meet the Scottish Government’s policy objectives. <b>See page 22 of ASSC written evidence.</b>
	<b>AR</b> stated that <i>“The current antisocial behaviour legislation is designed to deal with people in the community, such as those living in tenancies, who are creating longer- term problems”</i> .
	<b>AR</b> fails to appreciate <b>Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004</b> which enables local authorities to serve an Antisocial Behaviour Notice on a private landlord when an occupant or visitor

<sup>8</sup> Further information on the FOIs are available from the ASSC on request.

	engages in antisocial behaviour at, or in the locality, of the property, or <b>The Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011</b> which grants local authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use. <b>See page 18 of ASSC written evidence.</b>
	<b>NR</b> failed to provide any evidence of any evidence of human trafficking, drug dealing or puppy farming.
<b>EW:</b> The committee has heard concerns that local authorities might not have sufficient staffing or resourcing to effectively administer the licensing scheme or to take prompt enforcement action. Do you share those concerns? If so, how could they be best overcome?	<b>TC</b> confirmed that ALACHO shares <i>“those concerns. Resources have been an issue across local authorities for a number of years. The licensing scheme is an additional burden, and it will be a challenge.”</i> He recognised the problem of enforcement and sought funding from the Scottish Government to facilitate the legislation.
	<b>The ASSC maintains that the extra cost burden to local government who will be responsible for administering the scheme is unreasonable.</b> 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. Local authority concerns appear to have been ignored. <b>See page 18 of ASSC written evidence.</b>
	<b>AR</b> stated that <i>“In Edinburgh’s case, the current year’s budget has a funding allocation of £250,000 to look at the start- up costs of dealing with licence applications and the stuff that we talked about earlier”.</i>
	East Lothian Council has confirmed to the ASSC that: <i>“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.”</i> <b>See page 14 of ASSC written evidence.</b>



<p><b>MeghanG:</b> Last week, we heard from witnesses who raised concerns about the cost of a short-term let licence. How much would the panel members expect a three-year short-term let licence to cost? Do they believe that the cost could harm small businesses and their ability to function?</p>	<p><b>LT</b> recognised the concern from industry about the cost implications. He quoted the 2020 BRIA estimated costs for a licence for a 2 bedroomed property. He stated that self-certification could keep costs down.</p>
	<p>The ASSC’s Registration scheme would deliver precisely what LT suggests, reducing the burden on local authorities, yet meeting the policy objective.</p>
	<p><b>TC</b> confirmed that a licence would be more akin to an HMO licence, which reflects the estimates from industry, SOLAR and others.</p>
	<p>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 <b>£1,500 to £2,000</b>, which would be crippling to small businesses.<sup>9</sup> 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. <b>See page 7 of ASSC written evidence.</b></p>
	<p><b>TC</b> stated that <i>“The issue to focus on is whether the proposed regime will be effective in delivering the level of control and safety for the communities that we are talking about”</i>.</p>
	<p><b>TC</b> has singularly failed to evidence a requirement for the control and safety associated with wither traditional accommodation providers or short-term lets.</p>
	<p><b>AM</b> concurred that <i>“local government will set the licence fee at something like the level of HMO fees”</i>. This undermines the BRIA.</p>
<p><b>MeghanG:</b> Do any of the witnesses have concerns about the inclusion of traditional bed and breakfast accommodation in the definition of a short-term let? Can you provide reassurances to those who own such accommodation?</p>	<p><b>AM</b> supported the inclusion of traditional B&amp;Bs merely to close a loophole for traditional small accommodation providers to be excluded from the regulations if they provided breakfast. He suggested that <i>“if somebody is living in a property, which is more likely to be the case for traditional B and Bs, they might be subject to a less onerous inspection regime with fewer requirements”</i>.</p>
	<p><b>LT</b> stated that <i>“It is regrettable that B and Bs, which are traditional businesses, have been captured in the definition, although I completely understand why that is the case, given the need to close the loophole”</i>.</p>

<sup>9</sup> 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.

	<p><b>TC</b> stated that <i>“On B&amp;Bs, the risk of avoidance is real”</i>. However, he went on to confirm his own experience of a traditional B&amp;B which had operated near his home for years, with no adverse outcome.</p>
	<p>Licensing should ensure consistency. 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? <b>See page 7 of ASSC written evidence.</b></p>
	<p><b>AR</b> provided an overview of the industry: <i>“They are not small, local and independent. It is not a case of granny letting a room in her house—that time has been and gone. In a lot of places, this is really substantial big business”</i>. <b>AB</b>: <i>“Thank you. It was important to hear that perspective.”</i></p>
	<p>ASSC members and traditional self-caterers would beg to differ, as would the 18,000 SCUs on non-domestic rates. The perspective that <b>AB</b> supports is baseless, unfounded and illustrates an evident lack of understanding of what policy makers are attempting to regulate. Underpinning any decision to regulate the short-term letting sector is the need for <b>robust, empirical data</b>. 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.<sup>10</sup> <b>See page 26 of ASSC written evidence.</b></p>
	<p>None of the respondents provided any reassurance to traditional accommodation providers, nor any demonstrable evidence for the requirement to include B&amp;Bs.</p>
<p><b>MB</b>: First of all, I want to look at certain unintended consequences. Are you aware of evidence from other industries that are subject to local authority licensing or licence renewal resulting in significant disruption for those businesses? Specifically, what proportion of licence renewals for other industries are regularly refused by local authorities? Do you have any data on that?</p>	<p><b>AM</b> noted that <i>“The legislation is quite clear: a licensing authority shall grant a licence, unless there is a good reason not to”</i>.</p>

<sup>10</sup> 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.

	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? <b>See page 10 of ASSC written evidence.</b>
	No data was provided by the witnesses.
<b>MB:</b> Members of the panel will know, previous witnesses have told the committee that licensing of short-term lets could lead to a significant reduction in their availability and could cost the Scottish tourism industry tens of millions of pounds annually in lost revenue, even given the disruption that has been caused during the pandemic. How would you respond to those claims about the impact of the proposal on the industry?	<b>LT</b> noted that <i>“The claims are born of surveys that groups have run among their members, which do not always present the full picture”</i> .
	The Scottish Government has failed to provide any evidence to counter these surveys.
	<b>LT</b> also noted that <i>“it is simply a case of bringing businesses that are currently unregulated into the regulated marketplace, where they will operate in a very similar way to their competitors, which is of key importance”</i> .
	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. 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? <b>See page 5 of ASSC written evidence.</b>
	<b>AR</b> cited an EPI report: <i>“There is little evidence that cities with an increasing supply of short-term Airbnb rental accommodations are seeing a large increase in travellers.”</i>
	<b>TC</b> claimed that <i>“there is absolutely no evidence to suggest that short-term lets have, in themselves, boosted the tourism industry or that, if they reduced in number, they would reduce the tourism industry”</i> .
	<b>AR</b> and <b>TC</b> categorically fail to recognise the contribution that traditional self-catering makes to the Scottish economy, as evidenced by Frontline Consultants: There are <b>17,794 self-catering units</b> on Non-

	Domestic Rates. These properties generate: <b>2.4 million visitor nights</b> per year; <b>£867m</b> total visitor spend; and support <b>23,979 FTE jobs</b> . <sup>11</sup> See page 1 of ASSC written evidence.
	<b>TC</b> requested that <i>“we get away from the idea that tourism is, of itself, some kind of sacred cow in the world of business... reducing tourism and the way in which it impacts on communities, is probably going to be a good thing”</i> .
	In response, we quote the Scottish Government: <i>“Tourism ... is one of Scotland's most important industries, helping to create wealth and jobs and build upon our strong international reputation. We aim to help our tourism and events industry to grow further and to attract more visitors to Scotland”</i> . Spending by tourists in Scotland generates around £12 billion of economic activity for the wider Scottish supply chain and contributes <b>around £6 billion</b> to Scottish GDP, representing about 5% of total Scottish GDP <sup>12</sup> .
	<b>TC</b> goes on to say that <i>“there is no evidence that short-term lets, which did not exist 10 years ago, have changed the world of tourism”</i> .
	This erroneous reiteration of his assertion that short-term lets did not exist 10 years ago goes against evidence and data provided by industry. In April 2020, the ASSC ran a survey which showed that 40% of respondents have been operating for over 10 years, over 60% of have been operating for over 6 years, with 83% operating for more than 3 years <sup>13</sup> . <b>TC</b> 's comments illustrate a remarkable belief that self-catering and bed & breakfasts are a 'new phenomenon' and that, irrespective of basic human rights and ECHR law, <b>“we simply now need to select those that can no longer operate.”</b>
	<b>TC</b> noted that <i>“we have a number of large and powerful operators that have been existing for a long time in what has, essentially, been an unregulated market. I am tempted to call it a wild west context”</i> . He goes on to reference <i>“unlawful activity, such as ignoring court orders”</i> .
	This appears to be a reference to collaborative economy platforms. <b>TC</b> does not substantiate his claims with any evidence or data. Indeed at one point, he stated that <i>“[we're] short on data”</i> .
	Can we assume that again, this legislation is not aimed at traditional accommodation providers?
	<b>AR</b> claimed that <i>“licensing has been introduced in a number of cities and locations worldwide.”</i>

<sup>11</sup> <https://www.assc.co.uk/wp-content/uploads/2021/08/Economic-Impact-Study-%E2%80%93Scotland-Report.pdf>

<sup>12</sup> <https://www.gov.scot/policies/tourism-and-events/>

<sup>13</sup> <https://www.assc.co.uk/wp-content/uploads/2020/06/ASSC-Sectoral-Survey-into-Self-Caterer-Access-to-Covid-19-Business-Support-Week-3.pdf>

	<p><b>AR</b> is misunderstanding licensing, which is an authorisation scheme and registration, which is a notification scheme. Countries worldwide have recognised that registration is best practice, with the EU looking at making it the only regulatory option for the STL sector. Introducing legislation to provide the data to support the need for legislation<sup>14</sup> is not consistent with the Scottish Government’s 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. <b>See page 24 of ASSC written evidence.</b></p>
	<p><b>AR</b> queries <i>“some of the economic assumptions and statements that are being made”</i>.</p>
	<p><b>AR</b> does not provide any evidence to the contrary, to back up her claims.</p>
	<p>Witnesses fail to address the question with any data or evidence.</p>
<p><b>MB:</b> My final question regards data around the link between short-term lets and the housing market. The cabinet secretary has said that the regulations could help to address the housing crisis. We know that there are five times as many empty homes in Scotland as there are self-catering units. Does the panel have any evidence of where the potential outcome of the regulations will be achieved?</p>	<p><b>TC</b> admits that <i>“data on the operation of the housing market is not good across the piece. The fact that we are short of data in some areas is no great surprise”</i>. He also claims that Airbnb is the only way to map short-term lets.</p>
	<p><b>TC</b> noted that <i>“Evidence provided in response to the consultation has demonstrated that short-term lets are problematic in the housing market in a very small number of locations, which makes it extremely difficult to generalise... We are talking about a relatively small number of communities, but those communities are facing some fierce problems as a consequence.”</i></p>
	<p><b>Introducing this legislation without a reason for general interest poses a potential illegality with Provision of Services Regulations (the “Regulations) 2009 (as amended) and the Provision of Services (Amendment etc.) (EU Exit) Regulations 2018</b> which preserved the Regulations notwithstanding the UK’s withdrawal from the EU. <b>See page 26 of ASSC written evidence.</b></p>
	<p><b>AM</b> references research completed by Rettie &amp; Co in 2018 and <i>“research that we did, albeit a few years ago.”</i></p>

<sup>14</sup> <https://www.assc.co.uk/parliamentary-questions-housing/>

	<p>Witnesses regularly confess a glaring lack of data on which to base this legislation, or the impact of short-term lets on house prices or availability. When ‘evidence’ is cited, it often comes from unreliable sources, such as third-party sites offering ‘scraped data. Furthermore, the Rettie and Co paper cited by <b>AM</b> is from a pre-pandemic context. Overall, 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. <b>Housing challenges are multifaceted and the growth of short-term lets should not be used as a convenient scapegoat for wider policy failures</b>; 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. <b>See page 26 of ASSC written evidence.</b></p>
	<p>Witnesses provided no data to evidence a link between short-term lets and the housing market.</p>
<p><b>WC:</b> Our witnesses last week seemed to prefer a registration scheme to a licensing scheme. Which would you or your organisation prefer, and why?</p>	<p><b>TC</b> affirmed that <i>“Serious and organised criminals are both serious and organised.... We need to listen to what the police are saying and hear the warning bells that come from a sector that has those connections and does not want to be regulated. We should not be fooled by them. Licensing is important for safety and for tackling organised crime in Scotland. The idea that a registration scheme is a suitable alternative is nonsense.”</i></p>
	<p><b>NR</b> stated that <i>“Police Scotland would support the proposed licensing system because of the concerns that surround criminality in the sector, which are based on intelligence that we have received”.</i></p>
	<p><b>TC</b> and <b>NR</b> fail to provide any evidence or data to suggest that traditional accommodation providers are involved in any crime.</p>
	<p>Witnesses, whilst fully supporting licensing, fail to have understood the Registration proposals from the ASSC, nor understand the difference between licensing and registration. <b>See page 22 of ASSC written evidence.</b></p>
	<p>Registration would address concerns and the Scottish Government’s policy objectives at a fraction of the cost and disruption/uncertainty.</p>
<p><b>WC:</b> If an unscrupulous operator of a short-term let has their licence withdrawn, would that make it a criminal offence for them to continue to operate? Similarly, if there was a registration scheme, would it be an offence for an unscrupulous operator to continue to operate if they were removed from the register?</p>	<p>Witnesses fail to reference that registration is deemed appropriate for landlords, despite clear data of unscrupulous landlords. <b>AR</b> repeats a misunderstanding of the scheme put forward by the ASSC.</p>

<p>AB: The survey responses that were submitted to the committee raised concerns that the proposed legislation was designed to tackle issues that are experienced principally in central Edinburgh. Taking that into consideration, what are your views on how short-term lets and housing demands would interact in rural and island contexts?</p>	<p>Witnesses fail to provide any data or evidence on which to substantiate their claims. <b>Is the Committee going to take cognisance of the serious concerns raised in the survey, which evidence that the majority of respondents do not support the proposed legislation?</b></p> <p>848 respondents who were opposed or strongly opposed to the proposed licensing system also gave additional reasons to support their view. The key themes were:</p> <ul style="list-style-type: none"> <li>• The proposed licensing system is wholly disproportionate to the problems it is trying to solve, which are mainly limited to a small number of urban locales (principally central Edinburgh).</li> <li>• There is no robust data to support the proposed licensing system.</li> <li>• The proposed licensing system should not apply to traditional Bed and Breakfast accommodation, including small Guest Houses, as these comply with relevant legislation and do not cause issues for neighbours or surrounding communities.</li> <li>• Many short-term let premises are already registered and inspected by Visit Scotland, the proposed licensing scheme introduces unnecessary duplication and cost.</li> <li>• The proposed licensing scheme should not apply to traditional self-catering accommodation, which already complies with the relevant health and safety requirements.</li> <li>• The proposed licensing scheme should not apply to properties built specifically as short-term lets.</li> <li>• The proposed licensing scheme places an additional burden on already stretched local authority budgets and staff.</li> </ul> <p>The loss of short-term lets caused by the proposed licensing scheme could limit choice for travellers and result in job losses amongst tourism businesses and companies that support short-term letting, such as cleaning, laundry, and property maintenance<sup>15</sup>.</p>
<p><b>MarkG:</b> Do we know how many short- term lets there are in the country? Do we know the scale of the issue that we are regulating for? If not, and if we are doing this in the absence of data, how can we be sure that we are going to get it right? Has there been a refresh of the 2018 study to ensure</p>	<p><b>AM</b> stated that <i>“One of the problems that we face is the lack of transparency in the industry itself”</i>.</p>

<sup>15</sup> <https://www.assc.co.uk/licensing-of-short-term-lets-analysis-of-survey-responses/>

that we know the scale of what we are trying to accomplish?	
	<b>AR</b> noted that <i>“There is, of course, some data available. The Scottish Government has referred to the figure for active Airbnb listings across the whole of Scotland, which was 31,884 in 2019... As I have said, there is probably quite a lot of information available locally that local authorities can use to help to design a licensing system on a local scale.”</i>
	Witnesses fail to provide any empirical data and admit that (a) that they don’t have any but (b) there is data available. The ASSC has provided empirical data to the Scottish Government repeatedly since 2017. We have commissioned independent research to back up that data. <b>See page 22 of ASSC written evidence.</b>
<b>MarkG:</b> Do you feel that a national system should be introduced or are there particular local authority areas that would rather not spend their resources on what they might not see as a pressing local issue? Perhaps we can kick off with Nicola Robison. Does Police Scotland have any data on antisocial behaviour issues in this respect? Is that sort of thing common across the country or is it much more localised?	<b>NR:</b> <i>“On the question of what antisocial behaviour is attributable to short- term lets, we have pointed out in our written submission that, unfortunately, we have no way of recording that sort of thing at the moment.”</i>
	Witnesses admit to a lack of evidence. They did not agree on whether it should be a national scheme or localised.
<b>AB :</b> I will open it up and ask whether any of you has anything else that you feel we should hear or that you want to underscore?	<b>AR</b> noted that <i>“We are sure that the vast majority of operators are good actors”</i> .
	If the vast majority of operators are good actors, there is not a general interest to meet, nor a mischief to address.
	<b>AR</b> noted that <i>“We want sustainable tourism”</i>
	Industry has evidenced that licensing will damage tourism. Supporting witnesses have not provided any evidence to the contrary. <b>See page 6 of ASSC written evidence.</b>
	<b>NR</b> reiterated that <i>“there is existing legislation that we can use at the moment, particularly in respect of antisocial behaviour. However, that legislation has limitations, which presents us with challenges”</i> .
	Introducing legislation to enforce existing legislation is against Better Regulation. <b>See page 17 of ASSC written evidence.</b>