

ASSC Submission to East Renfrewshire Council STL Licensing Consultation

6. There will be a 3-year initial application license and up to 3-year renewal license. Do you agree with this?

- Yes
 No

7. Please provide any comments below:

We agree with this position.

8. East Renfrewshire Council will NOT offer Temporary Exemptions or Licenses. Do you agree with this decision?

- Yes
 No

9. Please provide comments below:

This should have been set as two questions as temporary exemptions and temporary licences are different.

The ASSC believes that temporary licences should be issued – but all such properties should be subject to the same conditions as those with a normal short-term let licence.

On temporary exemptions, the ASSC has generally been supportive of granting temporary exemptions in other local authority areas, for instance in City of Edinburgh Council, as there can be instances where it may be beneficial for the local tourist economy to provide these where there is a large influx of visitors, due to events such as the Festival and Fringe. Alternative forms of accommodation, such as short-term lets, are integral to housing all those involved – whether participants, organisers or visitors. The same could be said for Glasgow City Council as the city had the challenges of hosting COP26 last year. At the current time, we do not believe there are events of equivalent scale in the East Renfrewshire which would compare in order to justify a temporary exemption. However, this policy should be kept under review in case circumstances change and to enable flexibility. Moreover, if East Renfrewshire Council did decide to introduce a temporary exemption, we believe that all forms of short-term let should be covered by both the mandatory and additional conditions in order to ensure a level playing field and that the main objective of licencing – to ensure premises are safe to let – is met.

10. We wish to include additional conditions on all licenses in relation to spa pools / hot tubs and wood burning fire provision. We are also considering some of the Scottish Government proposed additional conditions. Do you agree with this? (see page 28 of the draft policy document)

- yes
 no

11.If the answer to the previous question was 'no' please provide additional comments here:

We believe these are already covered in the mandatory conditions so would be an unnecessary duplication if applied as additional conditions.

12.Which issues should the additional conditions cover in East Renfrewshire:

- Noise
- Anti-social behaviour
- Refuse and recycling
- Property maintenance
- Communal repairs
- Unlawful activity
- Home/Room lets only - limitations on number of nights
- Privacy and security
- All of the above

13.Children under the age of 2 are exempt from the maximum occupancy limits. Do you agree with this?

- Yes
- No

14.If you answered 'no' to the previous question - what age should the maximum age limit be for children exempt from maximum occupancy levels and why?

We believe this should be set as under 10, in line with the approach taken by other local authorities in Scotland. Scottish Government guidance states that licensing authorities may wish to set the age limit as 'under 10 years', which is in line with the reference to children in the context of housing within the Housing Act (Scotland) 1987.

15.Would you like to give us any other feedback on the draft policy?

The ASSC welcome the opportunity to respond to East Renfrewshire Council's short-term let licencing consultation. We regret that this consultation is only live for one week, from 1 to 8 August, having originally meant to have been published in July.

Fees

We note the absence of any estimated fees from the Draft Policy statement, nor does the document go into any level of detail in terms of the criteria in the processing of determining the fees. Other local authorities, as part of their consultation process, have included estimated fees for stakeholders to comment on and the ASSC would argue that such figures, as well as an explanation behind the criteria used, are absolutely integral to this exercise. Our industry cannot be expected to have any confidence in the new system in their absence – how can we be expected to properly engage with this consultation if we do not know the expected costs imposed on business?

Overall, the fees attached to short-term let licencing are meant to be based on the principle of cost recovery – therefore, the ASSC believes that fees should not be set at a level greater than the amount necessary to recover establishment and running costs. If a fee structure with costly, disproportionately high fees was introduced, this will reduce accommodation capacity in the region and will damage the industry at a time when we need to work towards a sustainable recovery. Application and renewal fees should also be the same for the four categories set out by the Council – secondary letting, home letting, homesharing, home letting and homesharing – since the licence authority will be checking for the same mandatory and additional conditions.

We would refer East Renfrewshire Council to Scottish Government guidance which highlights ways to keep costs down, including: (a) economies of scale; (b) integrating service delivery with other housing and licencing functions; (c) using online and digital verification where possible, for example through photo and video evidence instead of a visit; and (d) taking a proportionate, risk-based approach to checks and verification, for example in considering whether, when and how often visits to premises are needed, especially in more remote and rural areas where the costs of such visits could be higher.

It is imperative that any fees are kept as low as possible given the environment many small businesses find themselves in. In this regard, we wish to highlight our alternative proposal which we believe could assist with an efficient and cost-effective way of securing compliance with the Licencing Order. The ASSC have worked in partnership with Quality in Tourism to promote a self-declaration model with risk-based inspections by the licencing authority.

Overall, this approach has four main advantages:

- It minimises the work required by the licencing authority to set the system up and renew licences;
- Allows the licencing authority to focus its inspection resources on a risk-based basis;
- Requires responsible behaviour and compliance by the operators; and
- Minimises the additional costs to operators (which will have to be absorbed as an additional business cost and/or passed on to the very visitors we want to visit your area to boost our economic recovery).

We understand that local authorities across the country are facing severe pressure on their resources, and we believe this system can go some way to help with the administrative challenges associated with the licencing regulations. We would be delighted to meet with officials to discuss this in further detail to see whether it would be appropriate for East Renfrewshire Council.

Additional Conditions

We have a number of concerns relating to the additional conditions set out and they do not align with the Council's aim in the draft policy statement to ensure an "efficient, effective and proportionate to the issues faced by residents and local communities in East Renfrewshire".

Unfortunately, there is a presumption of bad practice amongst self-term let operators throughout the Draft Policy statement and the proposed additional conditions, from issues such as anti-social behaviour to littering. We find incredibly disheartening and disappointing given the immense economic opportunities the sector provides to the region, as well as the fact that many businesses in the area have been a welcome part of the community for decades.

In respect of Appendix 4 – Additional Licence Conditions, we have the following comments to make:

Provision of Hot Tubs or Spa Pools

Wood Burning Stoves (Indoor and Outdoor) – p31 of draft policy

This is covered by fire safety legislation and is therefore a duplication of mandatory conditions.

Reporting of Certain Incidents

We would like to ascertain why the Council believes this is a matter pertaining to licencing. Any incidents involving a gas leak or fire, for instance, relate to safety and the operator would engage the emergency services as they are directly relevant, not a council licencing official.

Anti-Social Behaviour

Incidents of anti-social behaviour in self-catering premises are rare. Last year, the ASSC submitted Freedom of Information requests to all thirty-two local authorities in Scotland and the results of this show that 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.

Operators want harmonious relationships with neighbours and the local community – it is not in their interest to allow any anti-social behaviour in their business. This is part of the basic management of their property and there already is existing anti-social behaviour legislation that can be utilised by councils to respond when complaints arise. For instance, 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. However, this needs to be enforced, as the Cabinet Secretary for Housing Shona Robison MSP stated: “We expect all relevant authorities to use the powers available to them to deal with antisocial behaviour” (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>).

The language attached to the additional conditions by the Council in the draft Policy Statement that the licence holder must “ensure” that no disturbance or nuisance arises within or from the premises, or indeed ensure vehicles belonging to guests are parked lawfully, is unreasonable. First, many operators will not always be on site at their property. Second, while operators can reasonably *ask* that their guests comply with the two aforementioned examples, but they cannot *compel* them to do so. In addition, we are very concerned at the cost implications for East Renfrewshire Council to enforce this – will the Council have officers patrolling near self-catering units to check that guest vehicles are parked in an appropriate fashion?

On 3 iv, that “the licence holder shall notify the Council...of the details of any incident of anti-social behaviour...”, this should be dealt with by existing anti-social behaviour legislation. Why are the Council duplicating regulatory regimes?

Privacy and Security

Similarly, the Council repeat the same language that licence holders “must ensure” that guests know rules applying to shared doors and how to securely close them. Again, operators should *ask* their guests to comply with this request but cannot *compel* them to do so.

Noise

The ASSC believe that East Renfrewshire Council should adopt additional conditions in relation to: (a) noise monitoring; and (b) community accreditation and mediation. However, on any additional conditions applying to noise, there has to be a causal link to issues from those premises. One example where such conditions have been shown to work is Barcelona, where this was introduced

by local government, and further information is available in the ASSC's Forward Together paper (see ASSC, Forward Together: A Collaborative Approach to Short-Term Letting, Url: <https://www.assc.co.uk/policy/forward-together-a-collaborative-approach-to-short-term-letting/>). Noise monitoring devices can be a useful tool in evidencing any repeat offences and can underpin existing anti-social behaviour legislation.

Licensing authorities cannot be allowed to set restrictions on premises where there is a perception there may be an issue. Restrictions should not be put in place where there is potential or existing issues in the vicinity of the premises unless it can be shown the issues occurring in the vicinity originated specifically from the short term let premises.

Applying a condition that the licence holder must ensure that bedrooms, living room and hallway have **suitable floor coverings** is disproportionate and is yet another cost levied on businesses. This would not be asked of a private landlord renting out a property where noise complaints had been levelled by neighbours, so short-term lets operators should not be discriminated against in this manner. Furthermore, from both a commercial and equalities perspective, operators need to make their premises as accessible and inclusive for all of their guests. For instance, carpeting can trigger conditions such as asthma and other adverse effects.

While we note that East Renfrewshire Council provide a "reasonable steps" caveat in terms of ensuring that **guests arrive or leave during specific hours**, but it is again unfair to place the onus on operators on factors that are completely outwith their control, such as delayed transportation. At the present time, due to difficulties faced by airport operators, as well as industrial action on the railway network, many guests will arrive at their destination late due to no fault of their own. Why are the Council again using the language of "ensure" on factors that are not the preserve of operators?

Operators can ask guests not to use **hot tubs** after a certain timeframe but cannot compel them to do so. What evidence does the Council possess to suggest that this is a problem facing the short-term letting industry? Furthermore, if the hot tub is located within a self-contained self-catering unit, why do East Renfrewshire Council consider it necessary to apply what amounts to a hot tub curfew? Moreover, this raises the matter of enforceability: will the Council employ someone to ensure that guests are using hot tubs at appropriate hours? This appears to be another instance of short-term let businesses being discriminated against compared to other accommodation providers or types of property.

On **amplified music**, East Renfrewshire Council need to define what amplified music means as what is 'loud' to one individual compared to another is relative, as well as how this will be assessed. We again raise the issue of enforceability of this and would also like to see what evidence the Council holds that this is a problem within self-catering units in of itself and compared to other types of property.

Littering and Waste Disposal

The Council again state the licence holder "shall ensure" in respect of point 6 – while operators can advise guests of refuse collection day, they cannot compel them to comply. On a more practical point, we are dealing with individuals on holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues. Operators should of course provide the necessary materials and advice in regard to waste disposal but expecting every holidaymaker to follow this to the letter, especially when many may reside in areas with different policies for recycling etc, is unreasonable.

Once again, there is a presumption of bad practice by short-term let operators implicit in this document. There is no business incentive for self-caterers to rent out properties sprawling with rubbish. Self-caterers have provided well-maintained and clean environments for guests for decades and we would like to see what evidence the Council holds to show that littering and waste disposal is a specific problem of the self-catering industry compared to any other type of property. Finally, this additional condition also raises the question of enforceability: how will the Council monitor compliance?

Preventing damage to property

Prohibiting the use of keyboxes or other related devices would be an arbitrary approach. First, it should be recognised that keyboxes are used for a variety of different purposes, not just to facilitate entry to a short-term let – for example, they are readily utilised by carers. We would presume that the Council have no issue with keyboxes for this purpose but why should it be any different for short-term lets? It is the same device affixed to a door used to enable entry.

Securing the agreement of all owners within a property will be near impossible to achieve. Unanimity of agreement for any change to a property (e.g., repairs) is difficult to secure in other contexts but would be especially so for keyboxes used by short-term let operators. We therefore ask the following: will this become a general policy for all keyboxes within the local authority area, or do East Renfrewshire Council intend to solely discriminate against their use by short-term let operators?

Furthermore, the Council need to take cognisance of how the pandemic has changed the way operators interact with guests. There has been shift in consumer behaviour away from traditional meet and greets between operator/guest towards information being shared electronically and via apps. Indeed, due to specific Covid-19 legislation, it wasn't always possible for the two parties from different households to meet in-person – this is why many therefore chose to use keyboxes to ensure guests could gain access to properties.

Generally, the ASSC would encourage its members to affix any keybox in a manner that is aesthetically appropriate as possible.

Prohibition of LPG room-heaters and storage of inflammable liquids etc.

This section replicates the mandatory conditions in relation to gas safety. We would also ask why the Council think that self-caterers would be storing liquified petroleum gas in their premises and what evidence they hold that they do.

Requirement to produce on demand any policy, certificate etc.

This is already part of compliance so does not need to be an additional condition imposed by the Council.

Further Comments

As the main trade association for the self-catering sector in Scotland, the Association of Scotland's Self-Caterers hopes that our expertise and insight can help inform the approach taken by East Renfrewshire Council. We have always strived to work collaboratively and proactively with both local and national government stakeholders to ensure a balanced and proportionate outcome for all. We wish to make clear that the ASSC is not averse to regulation; but we do challenge policies that are pursued while lacking a firm evidence base which will damage the livelihoods of our members.

Self-catering properties have been a longstanding presence in communities for generations and provide an economic boost for local areas and enhance Scotland's tourist accommodation offering. 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.

Given the competition to maintain standards, holiday let owners often spend money more frequently on additional property maintenance than they would on their own property. Their guests spend money in local food shops, cafes, gift shops, restaurants, tourist attractions etc – many of which would simply be unviable without visitor spending. Self-catering currently boosts the Scottish economy by £867m per year.

With the importance of ensuring a sustainable recovery, and the significance of this measure for the livelihoods of our members in this region, we would respectfully encourage East Renfrewshire Council to work as closely as possible with the sector and to minimise the regulatory burden on small business.