



## **ASSC Response to Perth and Kinross Council Short Term Let Licensing Consultation**

Founded in 1978, the ASSC are the leading source of knowledge on short-term letting and holiday homes in Scotland and are the only trade body representing the interests of the traditional self-catering sector. We represent over 1,400 members, operating tens of thousands of self-catering properties throughout Scotland, from city centre apartments to rural cottages, to lodges and chalets, to castles. The ASSC commits its members to maintaining the principles of “quality, integrity, cleanliness, comfort, courtesy and efficiency” and to offering visitors to Scotland consistently high standards within their self-catering properties.

### **Please enter your comment(s) about the Draft Policy Statement on the Short Term Let Licensing Scheme.**

The Association of Scotland’s Self-Caterers (ASSC) welcomes the opportunity to respond to the Perth and Kinross Council’s consultation on short-term let licencing. As the main trade association for the self-catering sector in Scotland, the ASSC hopes that our expertise and insight can help inform the approach taken by the 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, especially in rural communities, 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.

With 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 more than £867m per annum according to Frontline Consultants. 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 Perth and Kinross Council to work as closely as possible with the sector and to minimise the regulatory burden on small business.

In terms of the Draft Policy Statement on the Short-Term Let Licencing Scheme, we have comments on the following areas:

- Licence renewal
- Floor/Layout Plan
- Code of Conduct/House Rules
- Maximum Capacity
- Fees
- Temporary Licences
- Temporary Exemptions

- Suggested Additional Conditions.

### **7.11 and 7.19 Licence Renewal**

We would like to highlight that Glasgow City Council and North Ayrshire Council are proposing five-year and ten-year licence renewals respectively and would encourage Perth and Kinross to follow their example with a more pragmatic timeframe for renewals.

### **7.14 (b) Floor/Layout Plan**

Such a technical layout plan will necessitate an expensive piece of work by a contractor which will be another cost on legitimate small businesses operating without issue for decades. This will be in addition to the cost of a licence fee, compliance with existing regulations, the mandatory and additional conditions, not to mention other factors such as rising energy costs.

### **7.14 Code of Conduct/House Rules**

We refer you to the existing ASSC Code of Conduct: <https://www.assc.co.uk/wp-content/uploads/2020/11/A3-ASSC-Code-of-Conduct.pdf>

### **9.3 Maximum Capacity**

We note that the Council state that children under the age of two who occupy a cot will not be included in the number of guests for the purposes of calculating a fee or the maximum capacity. We would like to know the reasoning behind this limit as most other local authorities have chosen ten years.

### **10. Fees**

What has been suggested by Perth and Kinross Council on short-term let licencing fees is causing widespread and significant concern for small businesses in the area. For secondary letting in particular, the figures set out are truly extortionate – double what has been proposed for homesharing and homeletting – and can in no way be described as “reasonable”, nor fitting with the principle of cost recovery.

When the Council propose £1,600 for a three-year licence, this will inevitably **lead to business closures** and lead to a reduction in the amount of quality accommodation available in the area, which will damage the region’s reputation for tourism and ability to host major events. An equivalent business in Glasgow is expected to be charged £400.

Overall, as a matter of urgency, Perth and Kinross Council need to:

- Explain the difference in the level of fees being applied to homesharing and secondary letting given that the Council will be undertaking the same checks;
- Explain why the level of fee doubles between homesharing and secondary letting;
- Explain why temporary licences and temporary exemptions are significantly cheaper than other fees when the Council will be undertaking the same checks;
- Explain how the figures for the licence fees are consistent with the principle of cost recovery;
- Provide a full breakdown and estimations of how the licence fees were calculated; and
- Set out the number of homesharing/homeletting and secondary letting properties within the Council area.

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, as has been discussed, 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.

We would refer Perth and Kinross 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 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 Perth and Kinross Council.

### **11. Temporary Licence**

All types of short-term let should comply with the same mandatory and additional conditions.

### **12. Temporary Exemptions**

All types of short-term let should comply with the same mandatory and additional conditions.

### **Annex B – Suggested Additional Conditions**

Throughout the Draft Policy statement and additional conditions, there is a presumption of bad practice against the short-term let industry, from issues such as anti-social behaviour to waste management, which 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.

The ASSC would argue that many of the additional conditions listed are unnecessary. This is either due to a replication of mandatory conditions; that they do not relate to the provision of accommodation through short-term letting; or are not within the control of the individual operator. We explain this below.

***“1. The licence holder must take reasonable steps to manage the premises in such a way as to seek and prevent and deal effectively with any anti-social behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.”***

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.

Professionally run self-catering businesses already do this as part of the basic management of the property. 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> ).

**“2. The licence holder must take reasonable steps to:**

- **ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;**
- **deal effectively with any disturbance or nuisance arising within or from the premises, as soon as practicable after the licence holder is made aware of it; and**
- **ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.”**

The language attached to the additional conditions 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 Perth and Kinross 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? Third, that “deal effectively with any disturbance or nuisance arising within or from the premises”, this should be dealt with by existing anti-social behaviour legislation. This is a duplication of regulatory regimes.

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.

The ASSC believe that Perth and Kinross Council *could* 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/>).

***“3. The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.”***

As stated, this is part of the basic management of a property that many legitimate businesses will already be doing. We refer you to the ASSC’s Code of Conduct which could be utilised instead of an additional condition. For more details, see: <https://www.assc.co.uk/policy/code-of-conduct/>

***“4. The licence holder must ensure:***

- ***guests know and understand any particular rules applying to shared areas and entrances;***
- ***guests understand that shared doors should be properly and securely closed after use;***  
***and***
- ***the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.”***

Of course, operators should *ask* their guests to comply with rules relating to shared entrances, areas and doors but cannot *compel* them to do so. In terms of the provision of access codes or keys to guests, this is part of the basic management of a property and should not be an additional condition.

***“5. The licence holder must ensure that the bedrooms, living room and hallway in the premises are carpeted.”***

Applying a condition that the licence holder must ensure that bedrooms, living room and hallway are carpeted 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.

***“6. The licence holder must take reasonable steps to ensure that guests do not 35 first arrive or finally depart from the property between the hours of 11pm to 7am. The licence holder must advise guests of this as part of their booking terms and conditions. (“Reasonable steps” allows for exceptions, such as significantly delayed transport).”***

While we note that Perth and Kinross Council state that *“reasonable steps”* would apply to ensuring that guests arrive or leave during specific hours, 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 ongoing industrial action on the railway network, many guests will arrive at their destination late due to no fault of their own. Perth and Kinross Council should not use the language of *“ensure”* on factors that are not the preserve of operators.

***“7. The licence holder must provide adequate information on, and facilities for, the storage, recycling and disposal of waste.”***

***“8. The licence holder must advise guests of:***

- ***their responsibilities;***
- ***the use of the bins/sacks provided for the premises; and***
- ***the location of the nearest recycling centre or recycling point.***

***“9. The licence holder must:***

- clearly label bins as belonging to the premises;***
- ensure that guests manage their waste in compliance with (8) including when they depart; and***
- maintain the bin storage area and the exterior of the premises in a clean and tidy condition.”***

The Council state the licence holder “*must*” in respect of the above points – 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 in Angus for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues. Furthermore, operators should of course provide the necessary materials and advice regarding 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 the possible additional conditions. 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 Perth and Kinross Council monitor compliance?

***“10. The Licence holder must not affix a key box, or other device to facilitate guest entry to the property, to any public or jointly owned private infrastructure without prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the permission to the licensing authority on request.”***

Prohibiting the use of keyboxes or other related devices is arbitrary. 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 Perth and Kinross 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 Perth and Kinross Council intend to solely discriminate against their use by short-term let operators?

Furthermore, Perth and Kinross 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.

In conclusion, we have highlighted that many of the additional conditions are unenforceable and will merely burden the licencing authority. If Perth and Kinross Council cannot enforce these, it is

incompetent and leaves the Council open to judicial review. Many of the additional conditions discussed earlier are part of the basic management of a property and could be instead be delivered by a clear and robust Code of Conduct, such as that devised by the ASSC (see: <https://www.assc.co.uk/policy/code-of-conduct/>).

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