

ASSC Submission to Shetland Islands STL Licencing Survey

2. Occupancy Limits

All short term lets which are granted a licence will be required to comply with a set of mandatory licence conditions which will apply across Scotland, including occupancy limits. The Council may decide that children under a specified age should not count towards the occupancy limits for a premises. Scottish Government guidance states that licensing authorities may wish to set the age limit as under 10 years.

Should children under the age of 10 count towards the occupancy of a premises?

- Yes
 No

Comments:

None.

3. Temporary Exemptions

The Council can issue temporary exemptions from the requirement to have a licence for certain occasions including where there is a large number of visitors to Shetland over a short period (e.g. Up Helly Aa; Folk / Accordion & Fiddle Festival; Tall Ships Race). This can be for a specified single continuous period not exceeding 6 weeks in any period of 12 months. Unlicensed operators would have to apply for an exemption and pay a minimal fee as well as complying with any conditions attached to an exemption.

Should temporary exemptions be introduced?

- Yes
 No

Comments:

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.

We therefore believe that temporary exemptions could be a useful tool for the Council in terms of accommodating larger visitor numbers at events such as Up Helly Aa. However, Shetland Islands Council should ensure that all short-term lets, even those with a temporary exemption, comply with the same mandatory and additional conditions.

Please add any further comments you wish to make in the box below or any further issues you want us to consider while we develop our Short-Term Lets Licencing Policy.

If you are happy for us to contact you to discuss these further, please leave your name and contact details. Many thanks.

Background

The Association of Scotland's Self-Caterers welcomes the opportunity to respond to Shetland Islands 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 Shetland Islands 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.

While we have provided comment on the issues of temporary exemptions and occupancy limits in response to the questions above, in the absence of a draft policy statement from the Council, we have highlighted some areas which the Council may wish to consider as part of their approach to regulation.

Additional Conditions

Local authorities have the option to include additional conditions alongside the mandatory conditions in terms of their proposed short-term let licencing regime. If Shetland Islands Council seeks to attach any additional conditions to short-term letting properties, care should be taken not to duplicate the mandatory conditions. What the ASSC have witnessed in some other local authorities is not only unnecessary duplication, but conditions which are completely unenforceable and which will merely burden the licencing authority. If the Council cannot enforce these, it is incompetent and leaves the Council open to judicial review. Many of the additional conditions 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/>).

Many of the draft policy statements from other local authorities exhibit a presumption of bad practice against the short-term let industry, from issues such as anti-social behaviour to littering, which we find incredibly disheartening and disappointing given the immense economic opportunities the sector provides to Scotland, as well as the fact that many businesses in the area have been a welcome part of the community for decades.

In terms of Shetland Island Council's short-term let licensing regime, the ASSC would therefore advise following these basic four principles:

- Take care not to duplicate the mandatory conditions if choosing to apply additional conditions;
- Ensure that any additional condition(s) taken forward is evidenced, enforceable and cost-effective for the Council;
- Implement a clear, proportionate and fair fee structure which will not inhibit the recovery of the tourist sector in Shetland; and
- Work closely with the self-catering sector throughout the implementation phase and beyond to protect the valuable economic contribution the industry makes to the islands.

Fees

Shetland Islands Council have not asked stakeholders for comment on their proposed short-term let fees or the fee structure as part of this survey. At this stage of the implementation process, we would have hoped that they would have been available

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. Moreover, any fees proposed should be applicable to all types of short-term let – be it secondary letting or homesharing – since licencing authorities will be assessing for the same conditions.

We would refer Shetland Islands 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 Shetland Islands Council.

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.

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 economies of Shetland and Orkney by £25m per annum according to Frontline Consultants.

Given 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 Shetland Islands Council

to work as closely as possible with the sector and to minimise the regulatory burden on small business.

Fiona Campbell

Chief Executive of the Association of Scotland's Self-Caterers

e: fiona@assc.co.uk