



## **ASSC Response to Midlothian Council Short-Term Lets Consultation Survey**

Founded in 1978, the Association of Scotland's Self-Caterers (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.

### **Introduction**

The Association of Scotland's Self-Caterers (ASSC) welcomes the opportunity to respond to Midlothian 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 Midlothian Council to work as closely as possible with the sector and to minimise the regulatory burden on small business.

### **Consultation Questions**

#### **5. Fees and Charges for Licence Applications.**

Midlothian Council intend to base these fees on the type of short term let and the number of letting bedrooms/guests who can be accommodated.

For Secondary letting these fees will range from £465 to £660 and for Home Sharing/Home letting the fees will be £210 to £330.

**Do you agree this method of setting fees is fair and proportionate.**

- Agree
- Disagree

**If you chose disagree, please explain why:**

Firstly, on the proposed fees of £465-660 for secondary letting, this lies outwith the fees anticipated by the Scottish Government's Business Regulatory Impact Assessment and they are also higher than many other licensing authority proposals. Midlothian Council will have to explain the rationale behind these fees.

In addition, the ASSC believes that the same fee should be attached to all types of short-term let, whether secondary letting or homesharing/homeletting. Thus, we believe that the Council must:

- 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;
- 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 Midlothian 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 Midlothian Council.

**6. Midlothian Council intend to add one licence condition in addition to those which the regulations say are mandatory. This condition states that:**

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

**Do you agree that this is a fair and proportionate condition.**

- Agree
- Disagree

**If you chose disagree, please explain why**

While we very welcome that Midlothian Council are only seeking to introduce one additional condition – a position which will be welcomed by small businesses in the area – the condition could be secured by the use of a Code of Conduct, such as that provided by the ASSC (see: <https://www.assc.co.uk/policy/code-of-conduct/>).

**7. 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 Licensing Policy.**

We have two comments regarding Midlothian Council's Draft Short-Term Lets Policy.

#### **14. Licence Conditions**

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 Midlothian Council to follow their example with a more pragmatic timeframe for renewals.

#### **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. The ASSC welcomes the fact that Midlothian Council have not provided an extensive and disproportionate number of additional conditions.

However, should matters change and if the 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 Midlothian 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 the area; 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 area.

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