



ASSC Submission to Aberdeenshire Council's Short-Term Let Licensing Consultation

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 1,600 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 Aberdeenshire 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 – and locally, self-catering is worth £44m in Grampian.**

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

Draft Short Term Lets Policy Statement

5. Have you read the draft policy statement?

Yes

No

6. Are there any other areas of the draft policy statement or the proposed additional conditions that you wish to make comment on?

Yes

No

7. If you answered 'yes', please specify.

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 littering, which we find incredibly disheartening and disappointing given the immense economic opportunities the sector provides, as well as the fact that businesses in the area have been a welcome part of the community for decades.

We believe that many of the additional conditions are unenforceable and will merely burden the licencing authority. If Aberdeenshire Council cannot enforce these, it is incompetent and leaves the Council open to legal challenge. Indeed, 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/>). We would also highlight that multiple local authorities have redesigned their additional conditions based on meaningful consultation with the ASSC and would respectfully advise that Aberdeenshire Council should follow this approach.

We have set out our main concerns about the proposed additional conditions at Question 11 but have a few other areas we wish to comment on regarding the draft policy statement.

Aberdeenshire Council's STL Consultation

We note that Aberdeenshire Council have expressed concerns regarding the timeline for implementing these short-term let regulations, as set out in the [Report to Aberdeenshire Council's Business Services' Licensing Sub-Committee of 2 September 2022](#) under item six, paragraph 3.8.1. [The ASSC had called for a delay in the licencing regulations](#), both as a means of supporting businesses during the cost crisis and assisting resource-stretched local authorities, but unfortunately our proposals were rejected by the Scottish Government.

However, it is far from ideal that this consultation from Aberdeenshire Council closes some six days **after** the requirement for local authorities to have established their short-term let licensing scheme on 1st October 2022. The ASSC are therefore left wondering whether this will be a viable and meaningful consultation exercise.

Application Process – Floor 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.

Location Plan

A location plan for rural properties is entirely unnecessary.

This is at no point part of the mandatory conditions, nor it is required. Plans are only required in order to evidence maximum occupancy (not fire prevention / escape routes etc, which are lifted from 2005 liquor licensing). This requirement strays into a planning consideration and over reaches the legislation.

Reporting of Certain Incidents

We would like to ascertain why Aberdeenshire 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.

Occupancy Levels and Children

It is a mandatory condition of a short-term let licence that hosts and operators ensure they do not exceed the maximum number of guests for their premises. The Council may choose to specify on an individual licence that guests may bring their children under a specified age and these children would not count towards the occupancy of the premises. Scottish Government guidance states that Licensing Authorities may wish to set the age limit as 'under 10 years' .

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

Yes

No

9. Please provide reasons for your answer.

The ASSC do not believe that children under the age of 10 should count towards the occupancy limit. This age limit is appropriate and reflects Scottish Government guidance which is in line with the reference to children in the context of housing within the Housing Act (Scotland) 1987. There is a clear difference between a child and an adult and that should be reflected in maximum occupancy requirements.

Additional Conditions

All short-term lets, which are granted a licence, will be required to comply with the set of mandatory conditions which apply across all of Scotland. The Council has a discretionary power to impose additional conditions for short-term let properties.

The Council has proposed a number of additional conditions covering several specific areas.

These are attached in Appendix 3 to the draft Short Term Lets policy statement.

10. Do you agree with the proposed additional conditions?

	Agree	Disagree
Antisocial behaviour	Antisocial behaviour Agree <input type="radio"/>	Antisocial behaviour Disagree <input checked="" type="radio"/>
Noise	Noise Agree <input type="radio"/>	Noise Disagree <input checked="" type="radio"/>
Waste collection / disposal	Waste collection / disposal Agree <input type="radio"/>	Waste collection / disposal Disagree <input checked="" type="radio"/>
Failure to maintain common areas	Failure to maintain common areas Agree <input type="radio"/>	Failure to maintain common areas Disagree <input checked="" type="radio"/>
Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.)	Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.) Agree <input type="radio"/>	Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.) Disagree <input checked="" type="radio"/>

11. If you disagree with any of the above points, please state your reasons.

Overall, the ASSC believe many of the additional conditions set out by Aberdeenshire Council are wholly 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.

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 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 Aberdeenshire 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?

Regarding the following sentence – “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? 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

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/>).

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.

We would welcome the use of noise monitoring equipment in short-term lets in tenemental properties and those that directly adjoin another property, where a causal link has been evidenced regarding noise from that premises. Noise monitoring devices can be a useful tool in evidencing any repeat offences and can underpin existing anti-social behaviour legislation.

While we note that the 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 industrial action on the railway network, many guests will arrive at their destination late due to no fault of their own.

Operators can ask guests not to use hot tubs after a certain timeframe but cannot compel them to do so. What evidence does Aberdeenshire 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 does the 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, Aberdeenshire 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.

Waste Collection/Disposal

The Council again state the licence holder "shall ensure" – 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 the area for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues.

Similarly, 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?

Failure to Maintain Common Areas

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 Aberdeenshire 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 Aberdeenshire Council intend to solely discriminate against their use by short-term let operators?

Furthermore, Aberdeenshire 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.

Guest safety (bicycles/boat safety/hot tubs/barbecue huts/outdoor play equipment etc.)

A short-term let concerns the provision of accommodation to a guests. Accommodation means any building or structure, or any part of that building or structure, that is being let out to visitors. Both mandatory and additional conditions should concern matters directly pertaining to short-term lets. Many of the proposed additional conditions clearly do not relate to the provision of accommodation.

Hot Tubs/Spa Pools

There is already existing legislation in relation to hot tubs and spa pools which renders this condition unnecessary.

Swimming Pools/Ponds

This is not an activity pertaining to the provision of accommodation.

Barbecue Huts

This should be covered by fire safety regulations so another unnecessary duplication which can be removed.

Provision and Use of Watercraft

If any short-term let operator in Aberdeenshire provides watercrafts to guests, this would be covered by such matters as public liability insurance so does not need to be included in additional conditions. The provision and the use of watercraft is an entirely different activity to short-term letting. We note the reference to advice and guidance from MCA, RoSPA and the Scottish Canoe Association which underlines this point.

Provision of Bicycles

Short-term letting concerns the provision of accommodation to guests so this proposed additional condition should be removed.

Outdoor Play Equipment

Short-term letting concerns the provision of accommodation to guests so this proposed additional condition should be removed.

Maintenance of property / Wood Burning Stoves

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

Prohibition of LPG room heaters and the storage of inflammable liquids

This section replicates the mandatory conditions in relation to gas safety. We would also ask why the Aberdeenshire 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.

12. Should other areas/issues be covered by the additional conditions?

Yes

No

13. If you answered 'Yes' to the above question, please specify.

N/A.

14. Should any of the proposed additional conditions be applicable to certain types of short-term licences (i.e., secondary letting, home letting or home sharing or certain types of properties?)

Yes

No

15. Please provide reasons for your answer.

To secure consistency and fairness in the regulations – and to uphold the principle of health and safety underpinning licencing – any proposed additional condition taken forward by Aberdeenshire Council should apply to all types of short-term let.

Temporary exemptions

The Council has the option to grant temporary exemptions to the requirement to have a licence for a period of up to 6 weeks which would need to be applied for. This could be to allow a large influx of visitors over a short period for a particular event.

The Council is not proposing to consider applications for temporary exemptions because the licensing regime is intended to ensure that premises are safe to let, and exemptions may reduce standards.

16. Do you agree with the approach to not grant temporary exemptions?

Yes

No

17. If temporary exemptions to a licence are introduced, should the additional local conditions apply?

Yes

No

18. Please provide reasons for your answer

To secure consistency and fairness in the regulations – and to uphold the principle of health and safety underpinning licencing – any proposed additional condition taken forward by Aberdeenshire Council should apply to all types of short-term let, including those granted a temporary exemption.

Temporary licences

The Council has the ability to grant temporary short-term let Licences for a period of up to 6 weeks, or longer if an application has been made for a full licence. Please note that in applying for a temporary licence full compliance with mandatory conditions is necessary.

19. Do you think the Council should introduce temporary licences?

Yes

No

20. If temporary licences are introduced, should the additional local conditions apply?

Yes

No

21. Please provide reasons for your answer.

As per our previous answers, any additional local conditions taken forward should apply to all types of short-term let – and this should include those granted a temporary licence.

Fees and charges

Licences will be granted for a 3-Year Period.

Licensing authorities can take account of the size of premises, number of guests and type of premises in setting a banding structure for its fees. The Council are considering the following fee structure based on the number of occupants.

Guest capacity (People)	Short-Term Let	Renewals 10% reduction
1 or 2	£612	£550
3 or 4	£816	£735
5 to 9	£1015	£914
10+	£1298	£1168

22. Do you agree with the proposed draft licence fee costs?

Yes

No

23. Please provide reasons for your answer.

The ASSC notes that Aberdeenshire Council propose a 3 yearly renewal of a short-term let licence. We would point out that other local councils, such as North Ayrshire (10 years), are proposing a longer timeframe and we would encourage the Council to follow suit in order to reduce the regulatory burden on businesses.

While we support applying the same level of fee towards all type of short-term let – whether it is homesharing or secondary letting – the proposed fees are going to be a significant cost burden for operators (going beyond those estimated by the Scottish Government's BRIA and what other local councils have set), especially for those properties with a guest capacity of 5-9 (£1,015) and those

accommodating +10 (£1,298). These are some of the highest figures we have seen so far from Scottish councils.

The ASSC seek further clarification on how these figures were calculated and how they relate to the principle of cost recovery. Indeed, we believe 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. Following consultation with the industry, we note that Orkney Council have reduced their fees by 20%.

We would refer Aberdeenshire 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 Aberdeenshire Council.

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