



Falkirk Council Short-Term Let Licensing Draft Policy – ASSC Response

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 ASSC welcomes the opportunity to respond to Falkirk Council's consultation on its draft short-term let licensing policy. 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. Our comments provided here on the draft licensing policy should be read alongside our earlier submission to Falkirk Council's STL survey.

ASSC Comments

5.2 Licence Duration

We note that Falkirk Council proposes a three-year 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.

Section 11 – Fees

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 is introduced at this critical time, this will reduce accommodation capacity and will damage the industry at a time when we need to work towards a sustainable recovery.

While the new application and renewal fees appear reasonable, Falkirk Council need to explain the disparity between the fees charged between secondary letting and homeletting/homesharing. Any fees proposed should be applicable to all types of short-term let – be it secondary letting, homesharing or homeletting – since licencing authorities will be assessing for the same conditions.

Appendix 4 – Additional Licence Conditions

We believe that many of the additional conditions are unenforceable and will merely burden the licencing authority. If the Council cannot enforce these, it is incompetent and leaves the Council open to judicial review. 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 Falkirk Council should follow this approach.

Anti-Social Behaviour

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 Falkirk 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?

It is worth remembering that 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>).

On any additional conditions applying to noise and anti-social behaviour, there has to be a causal link to issues from those premises. Licencing 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.

Privacy and Security

Similarly, the language in this section states that the licence holder “must ensure”. While operators can and will inform guests about rules applying to shared entrances/areas/doors, they cannot compel them to comply.

Damage to Property

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

Furthermore, Falkirk 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.

Littering and Waste Disposal

It should not be forgotten that there is no business incentive for self-caterers to rent out properties strewn 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?

The Council 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 city for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues.

Noise

Applying a condition that the licence holder must have either carpets or vinyl floor covering 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.

The additional condition on guest arrival/departure times is unreasonable. It is 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.

On amplified music, the 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.

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