



Scottish Government Short Term Let Consultation

Information for ASSC Members

Introduction

- The Scottish Government has launched a new consultation on short-term let regulation in Scotland that sets out a range of possible approaches to regulation, and responses will be used to inform their overall regulatory approach.
- Please fill out your answers to the consultation by accessing the following link on the Scottish Government website: <https://consult.gov.scot/housing-services-policy-unit/short-term-lets/consultation/subpage.2016-07-07.1474135251/>
- This is a wide-ranging consultation encompassing numerous policy areas, including economy, housing, planning law, anti-social behaviour, and taxation.
- You do not have to answer all the questions and information is provided below to assist you with your response, as well as links to key ASSC documents.
- The deadline for submitting responses is **19th July 2019**.

Key Documents

You may find the following sources of information helpful:

- ASSC., *Far More Than Just Houses* (2018). Url: <https://www.assc.co.uk/wp-content/uploads/2018/06/MoreThanJustHouses.pdf>
- ASSC., *Economic Impact Assessment of the Short-Term Lettings on the Scottish Economy* (2017). Url: [https://www.assc.co.uk/wp-content/uploads/2017/09/ASSC Economic Impact Assessment of Short Term Lettings on the Scottish Economy - Final Report v1.2.pdf](https://www.assc.co.uk/wp-content/uploads/2017/09/ASSC_Economic_Impact_Assessment_of_Short_Term_Lettings_on_the_Scottish_Economy_-_Final_Report_v1.2.pdf)
- ASSC., *Long-Term Approach to Short-Term Letting* (2019). Url: <https://www.assc.co.uk/wp-content/uploads/2019/02/ASSC-Policy-Paper.pdf>
- ASSC., *Code of Conduct*. Url: <https://www.assc.co.uk/wp-content/uploads/2017/04/ASSC-Code-of-Conduct.docx>

Consultation Questions

Question 1 Are you aware of any additional data on the impacts of short-term lets (over and above that set out in Annex A – The Short-Term Rental Sector, Housing and Tourism in Scotland) which the Scottish Government should take into account when considering proposals for regulation?

- The ASSC's report, *Far More Than Just Houses*, is so far the only piece of research into the effect short-term letting has on housing, demonstrating that so far there is no adverse effect on the housing stock.
- The ASSC encourages policymakers to focus on robust and empirical data rather than anecdote or so-called scraped data. This type of data is subject to numerous assumptions, which can, in turn, lead to unsupported conclusions.

Question 2 Should a regulatory framework distinguish between sharing, swapping and secondary letting?

- Any regulatory framework should distinguish between a commercial short-term let, whereby the host lets out their property for over 140 nights of the year, and a home sharer who shares their primary residence, either their whole home for less than 140 nights of the year, or a spare room in their primary residence.
- Clearly defining what is a holiday home, second home, or short-term let requires detailed consideration with consideration to: the duration of stay; the frequency of the let; and in what circumstances a property needs to be used in order to fall into those categories.

Question 3 Should the rules be capable of being different depending on the type of accommodation? For example, to distinguish between tenement flats and detached houses.

- ASSC affirms that any legislation or regulation should not distinguish between tenement flats and detached houses.

Question 4 Do you have any comments on any other aspect of the definition of short-term lets?

- Overall, there are four different models of short-term rental (STR) operation, running alongside each other:
 1. Traditional self-catering STR (non-serviced accommodation)
 2. Collaborative Economy STR via online platforms (Airbnb, Booking.com, HomeAway, HouseTrip etc) (largely non-serviced accommodation)
 3. Serviced apartments (a type of furnished apartment available for short-term or long-term stays, which provide amenities along the same lines as a traditional hotel) (serviced accommodation)
 4. Apart hotels (serviced accommodation).
- It is also critical to understand the difference between professional/full time operators of short-term rental and the amateur or peer-to-peer/part-time players when looking at this as a sector.

Question 5 Do you have any comments on the positive or negative impacts of short-term lets?

- Short-term lets and the traditional holiday letting sector provide an enormous boost to the Scottish tourist economy. For example, the holiday let sector in Scotland supports 15,000 jobs and attracted £723m in consumer spending, £470m of which is spent by visitors to Scotland.

Question 6 Do you have any examples of other positive or negative impacts of short-term lets?

- This is an opportunity for members of the ASSC to make a clear positive case for short term lets for local communities and the economy.
- ASSC members should make their own individual case and how their business has benefitted the community and the local economy etc.

Question 7 Do you have any comments about the impact of short-term lets on the housing market?

- Short-term lets are a convenient scapegoat for longstanding failures in housing policy, as shown by the ASSC's *Far More Than Just Houses* report, such as the failure to build sufficient levels of affordable housing.
- Moreover, there are 79,000 empty homes in Scotland compared to 16,692 short-term lets. That means that there are almost five times as many empty homes in Scotland as there are self-catering units.
- More attention should be given to occupying vacant homes than suggesting self-catering units alone are adversely affecting local housing markets.

Question 8 Do you have any comments on the restrictions imposed on short-term lets by planning law?

- Planning permission, as a one-off decision would not address the various concerns that have been expressed in relation to the management of short-term letting, such as health and safety, and antisocial behaviour issues.
- Attempting to regulate these lets by use of planning permission may have a seriously detrimental effect on the local planning authorities themselves, causing a back log of applications at great cost to the planning authority as well as individual operators.
- A requirement for planning permission does not translate into being able to refuse permission if there are no material planning considerations involved, and it is not clear whether a change in how a dwelling is occupied would be a material consideration in all cases.
- Planning law does not seem the most appropriate place to regulate short term lets as planning law is designed to address land use, and has only limited scope to deal with property use.
- The degree of local flexibility on the need for control would not apply with a national requirement for planning permission, showing that a one size fits all approach through planning permission is not the most appropriate way of regulating short-term lets.

Question 9 Do you have any comments on powers to tackle antisocial behaviour caused by short-term lets?

- Local authorities already have powers at their disposal to deal with anti-social behaviour which should be enforced. This includes the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011.
- The number of anti-social behaviour complaints are negligible to the number of self-catering units and properties.

Question 10 Do you have any comments about complaint systems for short-term lets?

- The Scottish Government and local authorities should signpost and support the ASSC Code of Conduct to encourage and promote best practice for hosts and good behaviour of guests.

Question 11 Do you have any comments on safety issues related to short-term lets?

- Commercial / professional operators already comply with health & safety / fire safety regulations. ASSC offers guidance on legal compliance as well as best practice. Sign post to the Code of Conduct.

Question 12 Do you have any comments on eligibility for non-domestic rates?

- The ASSC support the existing system whereby once a short-term let is available letting out over 140 nights they are eligible to pay non-domestic rates, and any less pay council tax. We encourage a regulatory system to follow existing rules and guidelines such as this.

Question 13 Do you have any comments on the additional eligibility requirements recommended by the Barclay Review?

- The ASSC welcomed the threshold of 140 available days and 70 nights of actual lets in order for a small self-catering business to qualify for SBBS, as most businesses already comply, but it has expressed concerns that other aspects of SBBS reform proposed by the review will place an unfair burden on smaller businesses. The ASSC feels that action needs to be taken to avoid an unfair impact on such an important element of Scotland's economy.

Question 14 Do you have any comments on the eligibility of self-catering accommodation for the Small Business Bonus Scheme?

- This is an opportunity to highlight the importance of SBBS for professional self-catering operators and how it impacts on individual businesses.

Question 15 Do you have any other comments on taxation relating to short-term lets?

- Insert any information as necessary. However, there will be a separate consultation on a locally-determined tourist tax launched by the Scottish Government later this year so there is no need to go into it in depth here.

Question 17 Do you have any comments on the proposed scope of a regulatory framework?

- Signpost to the ASSC policy paper, *The Long-Term Solution to Short-Term Letting*. The ASSC support councils having the ability to use existing powers to control short-term lets in a system where:
 - All short-term rental accommodation must be registered with the local authority
 - In areas of demonstrated housing pressure and where the local authority has designated it a Rent Pressure Zone (RPZ), whole properties available for over 140 nights of the year may be limited by the council, by applying for a licence.

Question 18 Do you have any comments on the controls or conditions which councils should be able to set through a registration or licensing regime?

- A registration scheme is vital in order to gather accurate data, and will be required should a tourist tax be introduced.
- A licensing scheme should only be implemented where empirical data indicates a demonstrated link between short-term letting and loss of housing stock.
- Planning (Scotland) Bill amendments may introduce planning restrictions that will inform future control.

Question 19 Do you have any comments on whether a licensing scheme and/or market based approach, and any associated charges, should apply to all types of short term lets and whether conditions and/or charges should vary according to the type of property, its location or the number of rooms?

- A licensing scheme should only be applied to whole homes, let out more than 140 nights of the year in areas of demonstrated housing shortage.
- A level playing field should be established across the sector. Specific localities / property types / number of rooms or properties let should not be negatively disadvantaged.

Question 20 Do you have any comments on the effectiveness of a days per year limit in meeting the Scottish Government's objectives?

- In areas of demonstrated housing pressure, for example, where the local authority has designated it a Rent Pressure Zone (RPZ), whole properties available for over 140 nights of the year may be limited by the council and a licence applied for.
- 140 nights is where a short term let becomes liable to pay business rates. This sets a clear demarcation where it has become a commercial short-term let, as opposed to an amateur home sharer.
- A person who shares their home periodically, or a room in their home, and the home is therefore not removed from housing stock, should not be limited by number of days per year.

Question 21 Do you have any comments on how regulations should deal with commercial hosts?

- The ASSC has produced a policy paper entitled *The Long-Term Solution to Short-Term Letting* which we believe sets out the best way forward for approaching short-term let regulation.
- All operators, whether commercial or amateur should comply with the ASSC Code of Conduct (legal compliance and best practice).