

# **Proposals for a licensing scheme and planning control areas for short-term lets in Scotland**

## **Children's Rights and Wellbeing Impact Assessment**

**Scottish Government**

**December 2020**

# 1. Introduction

- 1.1. Seven impact assessments have been prepared in respect of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2021 (“the Licensing Order”) and the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 (“the Control Area Regulations”):
- A **Business and Regulatory Impact Assessment (BRIA)**, examining the likely costs and benefits of the Licensing Order and Control Area Regulations.
  - A **Children’s Rights and Wellbeing Impact Assessment (CRWIA)**, which is used to identify, research, analyse and record the impact of a proposed law or policy on children’s human rights and wellbeing.
  - The results summary of **Equalities Impact Assessment (EQIA)**, examining the impact on different people and groups, prevent discrimination and identify opportunities to promote equality.
  - A **Data Protection Impact Assessment (DPIA)** is required by the General Data Protection Regulation (GDPR) for all projects (including new policy and regulation) involving personal data and privacy.
  - A summary assessment against the **Fairer Scotland Duty** aims to help the public sector make better policy decisions and deliver fairer outcomes. The duty focuses on socioeconomic inequality issues such as low income, low wealth, and area deprivation.
  - An **Island Communities Impact Assessment (ICIA)** is required by the Islands (Scotland) Act 2018 where a policy or strategy is “likely to have an effect on an island community which is significantly different from its effect on other communities”. The requirement to carry out an Island Communities assessment is not yet in force yet but Scottish Government has committed to completing them for new policies.
  - A summary of the pre-screening document for the **Strategic Environmental Assessment (SEA)**. The SEA helps to protect the environment by allowing planners and decision makers to consider the likely significant environmental effects of plans, programmes and strategies.
- 1.2. All of the impact assessments examine the impact of Licensing Order and Control Area Regulations. The proposals are summarised and the consultation process and outcomes explained in chapters 1 to 7 of the *Consultation report on proposals for a licensing scheme and planning control*

*areas for short-term lets in Scotland* (“the 2020 consultation report”) which can be found at: [www.gov.scot/publications/short-term-lets/](http://www.gov.scot/publications/short-term-lets/).

- 1.3. The policy objectives and design principles (which may be found at **Annex D** of the 2020 consultation report) are common to all of the impact assessments.

### **Policy objectives**

- 1.4. The high-level policy purpose behind the licensing and planning control area interventions is intended to be as follows:
- **Licensing** – to ensure short-term lets are safe and address issues faced by neighbours; and to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively.
  - **Control areas** – to help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood); to restrict or prevent short-term lets in places or types of building where it is not appropriate; and to help local authorities ensure that homes are used to best effect in their areas.

### **Contribution to national outcomes**

- 1.5. The regulation of short-term lets supports the following National Performance Framework objectives:
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
  - We have thriving and innovative businesses, with quality jobs and fair work for everyone.
  - We tackle poverty by sharing opportunities, wealth and power more equally.
  - We live in communities that are inclusive, empowered, resilient and safe.
  - We value, enjoy, protect and enhance our environment.
  - We are creative and our vibrant and diverse cultures are enjoyed widely.

## **2. Children’s Rights and Wellbeing Impact Assessment**

2.1. This is the result of CRWIA Stage 1 screening.

### **The policy and describe its overall aims.**

2.2. The policy and its overall aims are set out in chapter 3 of the 2020 consultation report and the policy objectives and relevant national outcomes are set out in chapter 1 above.

### **What aspects of the policy will affect children and young people up to the age of 18?<sup>1</sup>**

2.3. The policy could affect children and young people in these ways:

- a) as hosts themselves;
- b) as children of hosts;
- c) as guests or children of guests;
- d) as neighbours of short-term lets; or
- e) in local communities.

### **As hosts**

2.4. To be a host, a person must be capable of granting agreement for use of accommodation for this purpose. In practice, that means they must own a home or rent a home. Only persons aged 16 or over can do this in their own name. However, as a person must be aged 18 or over in order to obtain a mortgage, there will be very few child homeowners acting as short-term let hosts. In terms of renting, specific data on young people within the PRS is not available. But many tenancy agreements prohibit sub-letting and a young person is unlikely to be able to afford a home with spare rooms to rent out. We consider that the number of children and young people affected by this policy as hosts is negligible.

### **As children of hosts**

2.5. A more likely scenario is that the parents or guardians of children make rooms available in their own home for short-term lets or let out a second home for

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<sup>1</sup> The Articles of the UNCRC and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

this purpose. As far as the children are concerned, the three primary consequences are:

- the presence or absence of guests in their own home;
- the safety of the home they live in; and
- the financial impact on their parents or guardians.

- 2.6. The overarching question is whether parents or guardians who are currently short-term let hosts continue to do so in a similar or modified form or stop doing so. The business and economic impact is considered in detail in the BRIA.
- 2.7. In some cases, hosts may choose to cease operating but there will also be instances where their licence application is refused or the licence is later suspended or revoked. When applying for a short-term let licence an applicant will be subject to a “fit and proper” person test before the local authority either grants or refuses the licence application. A person may not be a fit and proper person may be cease being a fit and proper person based on:
- a) relevant criminal convictions (and police intelligence);
  - b) being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past;
  - c) having had a short-term lets or HMO licence revoked by any local authority;
  - d) having had an application for a short-term lets licence turned down by any local authority; and
  - e) providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.
- 2.8. Additionally the accommodation must meet, and continue to meet, the licence conditions set by the local authority. All applicants for a licence will be required to ensure that their property complies with a mandatory set of safety standards, and any other conditions that the local authority deem necessary for the operation of the property as a short-term let. The legislation will help to raise standards across the sector and this may make staying in short-term lets more attractive to a wider group of visitors.
- 2.9. Some hosts, including parents and guardians of children, may rely on income from home sharing to pay their mortgage payments or other essential

household expenditure. A local authority is unlikely to refuse an application for home sharing without good reason to do so.

- 2.10. Similarly, secondary letting of one or more properties may provide an income stream (and employment) for parents or guardians. Some local authorities may want to reduce the intensity of secondary letting in some areas. This means, in the minority of cases, it may not be possible to continue hosting in the same way. This is likely to be the case in areas of housing pressure and so the host is likely to be able to maintain a revenue stream by moving their property into the Private Rented Sector (PRS) and finding a tenant without too much difficulty.
- 2.11. Where a host does continue to offer short-term lets, they will need to cover the costs of the licensing fee and any other costs to meet licence conditions not already met. The costs to hosts of the licensing scheme, and how these costs might be passed on to guests, is considered in the BRIA. We do not consider that the licensing scheme would have a significant adverse impact on income for most hosts. The likely level of the application and renewal fee will be relatively small in comparison to the earnings that can be derived from short-term lets, particularly when spread over the three year life of the licence. Furthermore, the costs of mandatory conditions are either already legally required, are part of best practice in the sector, and would generally be required if the property were to be used for other purposes, such as a long-term let. Planning fees will only be incurred if already required by existing legislation or where short-term let control areas are introduced because there is evidence that short-term lets are causing significant negative impacts on local communities. As such, there should not be a detrimental impact on the well-being of children in their care. Children of hosts carrying out home sharing or home letting will benefit from the basic safety conditions around fire, gas, water and electricity in their own home.

### **As guests or children of guests**

- 2.12. For guests staying in a short-term let with their children, or for young people aged 16 or 17 staying in accommodation in their own right, (particularly for those staying in a home sharing/letting property), they will have greater assurance that their host is a fit and proper person and that the accommodation is safe.
- 2.13. The cost of the accommodation may be slightly higher if the licence fee charged to hosts is passed on to guests but, spread across many bookings, this is likely to be marginal.

### **As neighbours**

- 2.14. Children and young people living in close proximity to properties which are used for short-term lets will benefit from the improved safety (especially risk of fire) from those properties. This is particularly so for neighbours of short-term lets in flats or tenement dwellings. They will also benefit from any noise, nuisance or antisocial behaviour being able to be tackled effectively. This may be through direct benefit to them or indirectly through their parents or guardians sleeping better and being more relaxed.

### **In the local community**

- 2.15. Where short-term lets are putting pressure on local housing, the use of control areas and additional measures under the licensing scheme will empower local authorities to manage the level of activity. This will help to improve access to housing and affordability in these areas. Children and young people living in these areas, or moving to these areas, will benefit from lower housing costs.

### **What likely impact – direct or indirect – will the policy/measure have on children and young people?**

- 2.16. “Direct” impact refers to policies/measures where children and young people are directly affected by the proposed changes, e.g. in early years, education, child protection or looked after children (children in care). “Indirect” impact refers to policies/measures that are not directly aimed at children but will have an impact on them. Examples include: welfare reforms, parental leave, housing supply, or local transport schemes.
- 2.17. There are no direct impacts as the policy is not targeted at children or young people. In terms of indirect impacts, we consider that these are negligible with respect to children and young people as hosts. The indirect impacts for children of hosts and children and young people of guests, and as guests, are mixed: there may be a marginal additional cost reducing household income; however, they will benefit from the mandatory safety conditions in their own home or the home they are staying in. The indirect impacts for children as neighbours and in the local community are positive, as noise, nuisance and antisocial behaviour issues will be able to be tackled more effectively and housing pressures in hot spots can be alleviated.
- 2.18. Overall, the introduction of an effective and robust short-term lets licensing scheme, and control areas where local authorities deem these appropriate, is likely to have a positive impact on children and young people.

### **Which groups of children and young people will be affected?**

- 2.19. Under the United Nations Convention on the Rights of the Child (UNCRC), “children” can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected

characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. "Groups" can also refer to children by age band or setting, or those who are eligible for special protection or assistance: e.g. preschool children, children in hospital, children in rural areas, looked after children, young people who offend, victims of abuse or exploitation, child migrants, or children living in poverty.

- 2.20. We have not identified any particular groups that would be affected, and we do not know of any reason why the licensing of short-term lets would affect particular groups of children and young people more than others.

### **Will this require a CRWIA?**

- 2.21. A CRWIA is not required as the policy will not affect children and there is unlikely to be any direct or indirect impact on children.
- 2.22. If there is any impact on children, it is most likely to be a neutral or positive impact, there is unlikely to be a negative impact on children.

### **CRWIA Declaration**

- 2.23. A CRWIA is not required.

### **Authorisation**

- 2.24. This screening assessment is approved by:

**Policy lead:** Andrew Mott, Head of Housing Markets, Strategy and North Programmes, More Homes Division.

**Deputy Director:** Brad Gilbert, Deputy Director More Homes, More Homes Division.

**8 December 2020**