

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

**Fairer Scotland Duty**

**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. Fairer Scotland Duty

2.1. The final step of the Fairer Scotland Duty assessment process is to complete the summary template:

### A. Summary of aims and expected outcomes of strategy, proposal, programme or policy

2.2. The policy objectives are set out in chapter 1 above.

### B. Summary of evidence

2.3. The following sections summarise the evidence.

#### People on low incomes

2.4. At present there are both positive and negative impacts of short-term lets on people on low incomes.

2.5. Negative impacts include the impact of short-term lets on the availability of housing stock, due to homes being removed from existing residential stock for use as short-term lets. This can also, in turn, increase house prices and rents in the private rented sector. This was cited as a frequent concern in our 2019 consultation, and in ongoing correspondence the Scottish Government receive relating to short-term lets. This is more likely to be a significant concern in areas where there are significant concentrations of short-term lets. Our 2019 research<sup>1</sup> noted that:

*Short-term lets are geographically concentrated with localised intensity. Two local authority areas (City of Edinburgh and Highland) accounted for more than half of all active Airbnb listings in Scotland. Three-quarters of all listings were found in seven of Scotland's 32 local authority areas. A total of 24 wards in Scotland (out of 354) accounted for more than half of all active Airbnb listings. City Centre ward in Edinburgh was home to 8.5% of all Scottish Airbnb listings.*

2.6. Pressures on supply due to short-term lets can have an impact on the ability for people to relocate to take up job opportunities. This was flagged as a particular concern in rural and island areas such as Skye and the Western Isles, where high numbers of short-term lets (and second homes) and a small private rented sector could make it difficult for people to relocate to take up job opportunities.

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<sup>1</sup> <https://www.gov.scot/publications/research-impact-short-term-lets-communities-scotland/pages/1/>

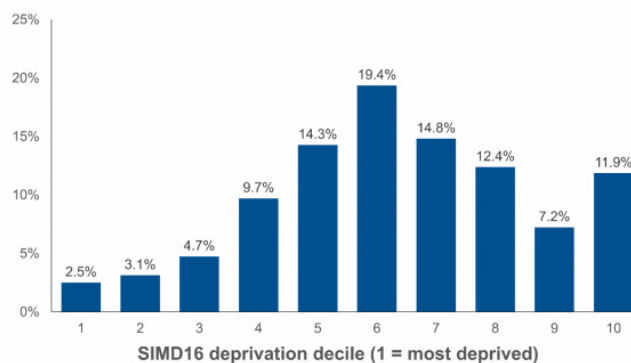
- 2.7. However, short-term lets may also have a positive impact for guests on low incomes, by offering a cheaper alternative to other forms of accommodation, such as hotels.
- 2.8. The home sharing and home swapping models of short-term letting also allow hosts to make extra money by renting out a spare room (or rooms) in their primary residence, or their entire home when they are away (for example, with work or on holiday). During our 2019 consultation, a number of hosts told us that this extra money could be important in helping them to maintain their mortgage payments, particularly if they were going through financial hardship, for example because of a redundancy.

**People living in deprived areas**

- 2.9. Our research demonstrated that there are proportionally more Airbnb listings in the least deprived decile than the three most deprived deciles in total:

*Across Scotland as a whole, there were proportionally more Airbnb listings in less deprived areas, particularly those in the middle of the SIMD 2016 rankings. There were more Airbnb listings (11.9% of the Scottish total) in the least deprived decile than there were in the three most deprived deciles combined (10.3%). The single biggest clustering of Airbnb listings was found in decile 6 areas, which are typically neither very deprived nor particularly affluent (e.g. Fountainbridge in Edinburgh, Garnethill in Glasgow). These areas accounted for 19.4% of all Scottish Airbnb listings, as shown in Figure 1.*

Figure 1: Scottish Airbnb listings (%) by SIMD decile (where decile 1 is most deprived)



Source: Inside Airbnb, May 2019, Scottish Government for SIMD 2016

- 2.10. Therefore, any local economic benefits of short-term lets are less likely to be evenly distributed.

2.11. The one major outlier to this national picture is in Glasgow, where the greatest number of short-term lets are in the most deprived decile (14.5%).

### **Alternative approaches to policy**

2.12. Collaborative economy platforms, such as Airbnb, have facilitated rapid growth in short-term lets. For example, Edinburgh has grown from having 8 Airbnb listings in 2009 to over 13,500 in 2019<sup>2</sup>. As such, regulatory approaches to manage short-term lets across the world are in their infancy and the evidence about their impact is limited at present.

2.13. Various governments have introduced regulation of short-term lets at country, city, local or municipality levels. Examples of regulation include registration schemes, limits on the number of days per year a property can operate as a short-term let, limits on the number of listings per host or restrictions or outright prohibitions in certain areas.

2.14. We committed to taking an evidence-based approach to regulation, and avoiding unintended consequences are key. Some approaches, such as a 90 day limit on letting, may mean that a property let out for 90 days can make enough money to remain viable and the property sits empty for 275 days of the year. As the Scottish Government is working to reduce the number of empty homes, this would not be a satisfactory consequence of regulation (nor would it be an efficient use of housing stock). Our licensing scheme was announced after careful consideration of the available evidence, including responses to our 2019 consultation and our independent research, and allows us to make progress in this Parliamentary session to address what is a pressing issue for a number of local communities. Our licensing scheme will also provide local authorities, and the Scottish Government, with accurate data which will continue to build our evidence base on short-term lets, which will help identify and shape any further interventions (if necessary).

### **Evidence gaps**

2.15. We completed an initial evidence review on short-term lets<sup>3</sup>, which was published alongside our 2019 consultation. Following the initial review, we identified that there were gaps in our evidence relating to the impact of short-term lets on communities. In order to bridge that gap, we commissioned Indigo House to carry out research in five locations across Scotland (Skye,

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<sup>2</sup> <https://www.gov.scot/publications/short-term-lets-annexes-consultation-regulatory-framework-scotland/>

<sup>3</sup> <https://www.gov.scot/publications/short-term-lets-annexes-consultation-regulatory-framework-scotland/>

Fort William, East Neuk, Edinburgh and Glasgow) into the impact of short-term lets on communities.

- 2.16. Limited data is available on the number and type of short-term let listings. Airbnb has provided data to the Scottish Government, but we do not have data from other platforms. Airbnb data is Scotland-wide and includes urban and rural locations. As the dominant short-term let platform in Scotland, the data give us a good indication of overall numbers in the most popular locations in Scotland. However, it is not very granular. For example, Airbnb data provides a figure for the total listings in Edinburgh but not broken down by council ward. It is widely accepted that there are areas in Edinburgh with high concentrations of short-term lets and other areas with low concentrations. Our independent research used scraped data from InsideAirbnb to build up a picture of short-term letting across Scotland, identifying that short-term lets are geographically concentrated.
- 2.17. Two local authority areas (City of Edinburgh and Highland) accounted for more than half of all active Airbnb listings in Scotland. Three-quarters of all listings were found in seven of Scotland's 32 local authority areas. A total of 24 wards in Scotland (out of 354) accounted for more than half of all active Airbnb listings. City Centre ward in Edinburgh was home to 8.5% of all Scottish Airbnb listings.
- 2.18. In addition, listings on Airbnb in more rural areas include unconventional dwellings such as pods, which do not remove homes from existing residential stock. Therefore, even where scraped data exists at ward level, it does not give us the full picture of the impact of short-term lets on the housing market.
- 2.19. There are also issues associated with scraped data such as double counting, for example, where a property is listed on multiple platforms. Also listings showing as unavailable may be so because they are booked or were never offered for the specified date and it is hard to distinguish between the two.
- 2.20. As previously outlined, our scheme will provide data to allow the Scottish Government to monitor and evaluate the impact of our proposals. Further action can be taken in the next Parliament if we continue to see issues.

### **Stakeholder Engagement**

- 2.21. The stakeholder engagement process is summarised in chapter 3 of the 2020 consultation report.

## **C. Summary of assessment findings**

### **Potential Improvements**

- 2.22. Two key areas were considered for possible improvement to reduce inequalities of outcome:
- a) the setting of fees in terms of the impact on disadvantaged households as hosts; and
  - b) the inclusion of unconventional dwellings.

### **a) Fees**

- 2.23. In developing detailed proposals, one key area to consider in terms of the Fairer Scotland Duty related to fees. Our proposals were set out in our 2020 consultation paper at paragraphs 6.61 to 6.65. We will not be specifying the levels that local authorities should charge, as this will depend on the volume of activity in their area and their cost base. Local authorities have wide-ranging flexibility to vary fees by a number of parameters including size and type of short-term let and to offer discounts for low volume activity.
- 2.24. Local authorities could put in place a set of fees which take into account property size, the time for which the accommodation is available for letting and distinguish between home sharing and letting, and secondary letting. The benefit of this is that the fees could, broadly speaking, be proportionate to income from the activity. An approach like this could keep fees low for those who wish to let a spare room, or rooms, in their home on an occasional basis. Short-term lets can provide a way for households to keep up with mortgage payments through financial difficulties, such as break-ups and redundancies.
- 2.25. As the licensing scheme will be delivered by local authorities, the fee structures will vary by local authority area depending on a number of cost factors including rurality, levels of compliance and inspection; these and others are discussed in more detail in the BRIA. Local authorities can only use fees to cover costs incurred by establishing or operating the licensing scheme.
- 2.26. We consider the broad powers we proposed to give local authorities, both in terms of how they operate the licensing scheme and how they charge fees, together with assumptions about how hosts might pass costs on to guests, discussed further in the BRIA, give local authorities the ability to mitigate any potential adverse impacts for disadvantaged households acting as hosts.

### **b) Unconventional Dwellings**

- 2.27. In our consultation paper, we proposed excluding unconventional dwellings (such as pods) from the definition of a short-term let, principally as they do not remove homes from residential stock and also due to concerns around potential complexities in how the mandatory safety conditions would apply to



them. However, a number of respondents to our consultation questioned the exclusion of unconventional dwellings, principally on health and safety grounds. This is discussed at paragraph **Error! Reference source not found.** of the 2020 consultation report and the Scottish Government has decided to include static unconventional accommodation within the definition of short-term let.

- 2.28. The principal benefit of this change is that it will extend safety protections to guests; no matter whether they are staying in traditional self-catering accommodation, or an unconventional dwelling such as a pod or a yurt. It can often be the case that unconventional dwellings are cheaper to rent than conventional dwellings, and therefore exclusion may have had a greater impact on households and individuals on low incomes.
- 2.29. If unconventional dwellings were to fall outside the scope of regulation, then it is likely that the amount of this type of accommodation would grow, increasing the safety risk in proportion. Additionally, bad hosts, such as those who are not fit and proper persons, and poor practice would be likely to centre on this type of accommodation.
- 2.30. By broadening the inclusion of unconventional dwellings it also ensures consistency and a level playing field across the board for hosts. Further, the estimates of short-term let numbers across Scotland include unconventional dwellings. By including them within the definition of a short-term let, it potentially reduces the fee per licence in some (rural) areas where conventional accommodation is relatively diffuse. This then reduces the cost passed on to guests, including those from disadvantaged households.

## **Changes**

- 2.31. We have amended the definition of short-term let to include unconventional dwellings. The expected outcomes are:
- a) Consistency of safety standards across all short-term lets, irrespective of whether they are a traditional holiday cottage, residential unit converted to short-term lets, or a glamping-style pod.
  - b) Guests and neighbours of short-term lets can be confident that they are all adhering to a common set of standards, and that local authorities have powers to impose additional licence conditions to tackle any issues specific to an individual property or local area.
  - c) Prevention of migration of bad hosts to unconventional dwellings in order to keep operating.

## **Conclusion**

- 2.32. We have refined our proposals following the 2020 consultation. This assessment covers the change to include unconventional dwellings within the definition of a short-term let. More details can be found in chapters 1 to 7 of the 2020 consultation report.
- 2.33. In addition, we will continue to monitor the impact of our proposals, and we are prepared to take action in the next Parliament if we continue to see issues, or evidence demonstrates a need for further intervention.

## **D. Authorisation**

- 2.34. Approved by:

**Brad Gilbert**  
Deputy Director, More Homes  
Scottish Government