



ASSC Response to West Dunbartonshire Council Short-Term Lets Policy

Founded in 1978, the 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 1,400 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

While we regret the fact that there is not a full public consultation on the issue, we appreciate the opportunity of being invited to comment on West Dunbartonshire Council’s draft Short-Term Let 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 West Dunbartonshire 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. Given 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 West Dunbartonshire Council to work as closely as possible with the sector and to minimise the regulatory burden on small business.

ASSC Comments on Draft Short-Term Let Policy

In regard to West Dunbartonshire Council’s draft *Short-Term Lets Policy*, the ASSC wish to make comments on the following areas:

- 4.7 b Floor/Layout Plan
- 4.10 Consultees
- 8 Licence duration and renewal
- 19 Fees
- Appendix 4 – Additional Licence Conditions

4.7 (b) Floor/Layout Plan

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 (currently unknown), compliance with existing regulations, the mandatory and additional conditions, not to mention other factors such as rising energy costs. Unless pertaining to maximum occupancy, there is absolutely no need for a floor plan.

4.10 Consultees

We do not believe it is necessary to include an additional layer to community objections through the involvement of community councils. Licensing deals with the safety of an activity, hence why it is important for the police and fire service to be statutory consultees.

8. Licence duration and renewal

We would highlight that Glasgow City Council and North Ayrshire Councils are proposing ten-year and five-year renewals respectively, and that such timeframes may be more appropriate for businesses in West Dunbartonshire.

9.7 Licence Conditions

The Licensing Authority will not include children under 2 years of age when calculating the maximum occupancy. Common with other local councils, we would suggest this should be set at 10 and under. Scottish Government guidance states that licensing authorities may wish to set the age limit as under 10 years.

19. Fees

We note the omission of any estimated fees for short-term let operators in the draft document. The ASSC would argue that such figures, as well as an explanation behind the criteria used, are absolutely integral to this exercise. Our industry cannot be expected to have any confidence in the new system in their absence.

Furthermore, in terms of the process in determining the fees, the Council proposes to differentiate between homesharing/letting and secondary letting. We would like to ascertain the reason for this differentiation given that the same checks will be undertaken on the properties and how this relates to cost recovery. We would also be keen to understand what figures the Council hold on the number of secondary lets and homesharing properties there are within the area.

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 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.

We would refer West Dunbartonshire 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 West Dunbartonshire Council.

Appendix 4 – Additional Licence Conditions

The ASSC believe many of the additional conditions set out by West Dunbartonshire 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.

Throughout the draft policy and additional conditions, there is a presumption of bad practice against the short-term let industry, from issues such as anti-social behaviour to waste management, which we find incredibly disheartening and disappointing given the immense economic opportunities the sector provides to the region as well as the fact that many businesses in the area have been a welcome part of the community for decades.

We have set out our concerns below with the following sections of Appendix 4 – Additional licence conditions:

2. Reporting of Certain Incidents

We would like to ascertain why the West Dunbartonshire 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.

3. 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>).

Regarding item 3a and 3b, the language attached to the additional conditions by West Dunbartonshire Council 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 the 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?

On 3 c, that “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 West Dunbartonshire Council duplicating regulatory regimes?

4. Privacy and security

Similarly, the Council repeat the same language on 4 b 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.

5. Noise

The ASSC believe that West Dunbartonshire Council should adopt additional conditions in relation to: (i) noise monitoring; and (ii) community accreditation and mediation. However, 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.

5 a. 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.

5 b. 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.

5 c. While we note that the Council state that reasonable exceptions 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. Why are the Council again using the language of “ensure” on factors that are not the preserve of operators?

5 d. Operators can ask guests not to use hot tubs after a certain timeframe but cannot compel them to do so. What evidence does West Dunbartonshire 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 do 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.

5 e. On amplified music, West Dunbartonshire 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.

6. Littering and Waste Disposal

The Council again state the licence holder “shall ensure” in respect of 6a and 6b – 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 region for a holiday and who will not wish to spend a large amount of time familiarising themselves with waste management and recycling issues.

Similarly, with 6iii, 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?

7. Preventing 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 the 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, West Dunbartonshire 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.

8. Prohibition of LPG room-heaters and storage of inflammable liquids etc.

This section replicates the mandatory conditions in relation to gas safety. We would also ask why the West Dunbartonshire Council think that self-caterers would be storing liquified petroleum gas in their premises and what evidence they hold that they do.

9. Maintenance of property

On 9a and b, this is already covered by the mandatory conditions and existing legislation and guidance so the Council are unnecessarily replicating regulatory regimes.

10. 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.

Overall, many of the possible additional conditions are unenforceable and will merely burden the licencing authority. If West Dunbartonshire Council cannot enforce these, it is incompetent and leaves the Council open to judicial review. Many of the additional conditions are part of the basic management of a property and could instead be delivered by a clear and robust Code of Conduct, such as that devised by the ASSC.

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