



POLICY PAPER – Scotland

1) Introduction

Founded in 1978, the Association of Scotland’s Self-Caterers (ASSC) is the leading source of knowledge on short-term letting and holiday homes in Scotland. The ASSC is the only trade body representing the interests of the traditional self-catering sector. It has more than 650 Members, operating in excess of 7,000 self-catering properties throughout Scotland, and has close links with other European countries, as founding members of the European Holiday Homes Association (EHHA). 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. The ASSC’s vision is to place our members at the forefront of a professional, vibrant and prosperous Scottish self-catering sector.

Our mission is to support members and the industry by:

- Providing information, help, guidance and support
- Promoting and marketing individual businesses and the sector
- Representation at Government and other levels
- Maintaining and developing a commitment to quality and customer service
- Offering a comprehensive package of benefits
- Efficiently managing the Association and its resources

This paper, and the associated Codes of Conduct, was developed in association with the Short-Term Accommodation Association (STAA).

STAA was founded in March 2017 and its seven founder members are: The Air Agents, Airsorted, Airbnb, HomeAway, OASIS, onefinestay and UnderTheDoormat. STAA was founded because the industry believes that there needs to be greater cooperation to tackle common challenges and to seize shared opportunities. STAA is seeking to work with all stakeholders towards a stable and supportive regulatory environment that promotes the UK as a global leader in the provision of short-term accommodation. An overview of STAA’s activities is provided below.

- Promoting the industry and educating stakeholders about the different business models that exist.
- Developing the short-term accommodation market.
- Developing industry positions on policy challenges and opportunities.
- Helping companies to make connections with potential customers, partners and suppliers.
- Providing a forum for the industry to address policy and regulatory challenges.
- Engaging with national and local government officials to build a supportive business environment for the industry and to tackle policy challenges.
- Developing industry standards and providing a mechanism for the sharing of best practice.
- Engaging with other international sectoral associations and related industries.

2) Industry overview

Short-letting one's main residence, or holiday home, to tourists or business travellers for short periods is not new. The self-catering / short-term letting industry has existed for decades in the UK. What is new is that the internet has revolutionised the industry and empowered consumers with more information, choice and transparency. The ease with which prospective operators or 'hosts' can advertise their home, or a room within their home, to guests from around the world has increased dramatically. The short-term accommodation industry encompasses a variety of business models:

- **Traditional Self-Catering / Short-term Let Operators** - SMEs who provide non-serviced accommodation and typically manage between 1 and 50 properties on a full time, professional, basis. Many operators now use collaborative economy platforms as an additional route to market.
- **Pure intermediary** – an online collaborative economy platform that connects guests with hosts, with minimal, or no, involvement in the stay.
- **Branded home accommodation providers** – an online platform that connects guest and host and provides a fully managed service and insurance.
- **Property management service providers** – hosts work with a company who support them with the management of stays and guest interaction.
- **Serviced apartment providers** – similar to a hotel, this model is typically a series of serviced apartments in buildings with additional hotel like services such as concierge on site.

3) Industry benefits and impact

The industry delivers multiple benefits to consumers, operators and hosts, the wider business community and to the UK government.

- **More choice for consumers** – Consumers are demanding more travel options, which include renting a home in a rural or urban environment, or a room within a home, when they travel. Guests benefit from staying in a 'home', living like a local when travelling. It also can be more appropriate for families who need additional space or additional facilities. Business travellers are increasingly wanting to stay in short-term let accommodation.
- **More accommodation supply for tourists and business travellers** – The UK tourism industry benefits from the increased availability of accommodation for tourists and business travellers, bringing an increasing number of visitors to the UK, especially at key points in the year (Edinburgh Festival / New Year).

- **A more optimal use of space** – By allowing short-term letting for short-periods when homeowners are out of town, existing housing stock is utilised in a much more efficient manner, avoiding the requirement to build additional space for increasing tourism.
- **Self-employed income** – Self-catering / short-term letting offers the opportunity to build a full time business and income for individuals.
- **Added income for individuals** – Supplementary income derived from occasional short-term letting can help individuals and families to earn additional income from their most important asset when they are not using it.
- **Added income for government** – Earnings accrued via short-term letting activity have to be declared by operators and hosts, which boosts tax revenue. Platforms also pay VAT on their services.
- **Employment opportunities** – The industry generates considerable employment opportunities both directly and indirectly.
- **Fostering the local economy**– Local businesses benefit from the added footfall from guests who spend money in local shops and restaurants and at local attractions.
- **A more competitive tourism industry** – The emergence of new businesses in the short-term letting industry has driven competition and innovation in the wider tourism industry.

There is a growing evidence base on the substantial economic impact of the industry, as demonstrated in the following studies:

- A 2014 HomeAway/London School of Economic study found that the total spent per year by holiday rental guests in the UK is approximately **£4.35 billion**, creating over **95,000 jobs** across the country. The study also found that the net direct effect of holiday rentals was approximately **£285 million** with **£100 million** going into UK in the form of income tax.¹
- In the UK, the traditional self-catering sector is an important component of the UK domestic tourism industry, accounting for 21% of the 114 million trips taken each year and responsible for 23% (£5.2bn) of the £23bn per annum that domestic tourism provides to the UK economy. This revenue directly provides 96,000 full time equivalent (FTE) jobs.²
- The Association of Scotland's Self-Caterers published a major study measuring the economic impact of the traditional self-catering sector in Scotland in April 2017. The study indicates that there are 16,949 self-catering holiday / short-term let properties

¹ Homeaway., 'Homeaway Unveils UK's First Comprehensive Domestic Holiday Rentals Report London School Of Economics Impact Report Reaches £4.5 Billion Conclusion For Holiday Rentals In UK', 02/12/14. See:

https://www.homeaway.co.uk/files/live/sites/hr/files/shared/partnerships/lse/14-12-02_LSE_Roundtable_Release.pdf

² EHHA., *Market Access Requirements for Accommodation Sector II* (March 2017).

in Scotland, with 1,351 properties have been identified in Edinburgh alone. The self-catering sector represents 3.4million visitor nights per year where 1.8million are non-Scottish visitors. The annual direct visitor spend is equal to £723.3 million (£470.1 million from non-Scottish visitors). Traditional self-catering in Scotland supports 10,725 direct FTE jobs and self-catering / short-term rental provides £205.8 million in direct GVA contribution.³

- Estimates from VisitScotland's *Scotland's Visitor Survey 2015* show that approximately 23% of all tourist visitors to Scotland stay in self-catering / short-term let accommodation.⁴
- Short-term rentals are the largest leisure accommodation form in Europe, providing a capacity of more than 20 million beds and an annual turnover of 80 billion euros according to PhoCus Wright's report "European Vacation Rental Marketplace: 2011-2013".⁵
- The Airbnb community generated **£361 million** of economic activity in Scotland in the last year, including an estimated **£293m** of guest spending and £68m earned by hosts.⁶
- **63%** of hosts reported that Airbnb income helped them pay bills they would otherwise struggle to pay, and a typical Airbnb host in London earns around **£3,000** by renting out for 33 nights a year.⁷
- The UK's sharing economy has grown the fastest in Europe, with transactions almost doubling to **£7.4bn in 2015** from £3.9 billion in 2014. This research found that the peer-to-peer accommodation sector accounted for 37% of overall sharing economy activity and 27% of sharing economy platform revenues in 2015.⁸

4) Policy challenges

There is growing debate in the UK at a national and local level about the impact of the industry and whether the existing regulatory framework is appropriate. At the core of this debate are concerns over how to:

- distinguish between amateur peer-to-peer and professional activity;
- ensure that the growth in short-term letting does not reduce the amount of housing stock available for longer-term lets;
- ensure a level playing field between the traditional hospitality industry and new

³ ASSC., *Economic Impact Assessment of Short Term Lettings on the Scottish Economy – Final Report* (2017). See:

http://www.assc.co.uk/download/ASSC_Economic_Impact_Assessment_of_Short_Term_Lettings_on_the_Scottish_Economy_-_Final_Report_v1.3.pdf

⁴ Visit Scotland., *Scotland Visitor Survey 2015* (2016). See:

[http://www.visitscotland.org/pdf/Final%20\(external%20use\)%20Scotland%20Visitor%20Survey%202015%20updated%208%20March%202016.pdf](http://www.visitscotland.org/pdf/Final%20(external%20use)%20Scotland%20Visitor%20Survey%202015%20updated%208%20March%202016.pdf)

⁵ Quoted in EHHA., *Market Access Requirements for Accommodation Sector II* (March 2017)

⁶ Airbnb., *Overview of the Airbnb Community in Scotland* (2017). See:

https://p38z32mnch359nna357msktk-wpengine.netdna-ssl.com/wp-content/uploads/sites/48/2017/03/ScotlandOverview_v4.pdf

⁷ Airbnb., 'Economic Impact – London & Edinburgh'. See: <http://blog.airbnb.com/economic-impact-airbnb/>

⁸ PwC., 'Outlook for the sharing economy in 2016'. See:

<http://www.pwc.co.uk/issues/megatrends/collisions/sharingeconomy/outlook-for-the-sharing-economy-in-the-uk-2016.html>

- platforms;
- ensure that hosts / operators are paying tax on income accrued via self-catering / short-term letting;
- ensure that consumers are adequately protected and have trust in the services being offered;
- better enforce the rules that exist;
- control growth of the sector by introducing new Planning Use Class Orders
- maintain residential amenity.

Distinguishing between amateur peer-to-peer and professional activity

The traditional sector of non-serviced self-catered accommodation has existed for decades and comprises a large number of professional businesses that operate year round in both rural and urban settings. These operators may now use collaborative economy online platforms as an additional route to market, however these properties do not represent additional stock or an increase in the size of the industry.

The typical platform-based peer-to-peer host lets out their main residence, or holiday home, for short periods when they are away. There are also hosts who occasionally let out a room within their home to travellers on a short-term basis. Many individuals have a secondary residence which they use for leisure or if they regularly travel to a particular area for business reasons. Occasional short-term letting of such properties should not constitute a material change of use. There is a fundamental difference between this sort of amateur activity, and a professional self-catering / short-term let operator, letting out multiple properties for short periods at the same time on a full time basis.

In urban areas where there are proven housing pressures (e.g. The Square Mile in Edinburgh) there may be a case for making a regulatory distinction between amateur and professional activity.

Ensuring that the growth in short-term letting does not reduce the amount of housing stock

There is no evidence to suggest that short-term lets are having any significant impact on housing stock or prices. The overriding reason for housing pressures in the UK is a lack of home building over a number of decades.

The IPPR recently published a study on the impact of homesharing on London's housing supply in London and concluded that the impact is currently negligible.⁹

EHHA highlights that there are no EU studies carried out yet which would prove that short-term rental accommodation has raised housing prices and provoked its shortage in some cities. For this reason, they have called on the European Commission to carry out an EU wide study which would focus not only on economic aspects, but also on consumers' perception of short-term rental, the advantages short-term rental creates (i.e. self-employment, fostering local economy, widening consumers choice, contribution to national tourism strategies via local community).¹⁰

⁹ IPPR., *Homesharing & London's Housing Market: Summary Report* (December 2016). See: http://www.ippr.org/files/publications/pdf/Homesharing-and-London-housing-market_summary-Dec16.pdf?noredirect=1

¹⁰ EHHA., *Market Access Requirements for Accommodation Sector II* (March 2017)

Ensuring a level playing field between the traditional hospitality industry and new platforms

An apartment used occasionally for tourists is very different from a hotel, and it is right that regulations are designed and applied in a proportionate and considered way. The services offered by hotels and bed and breakfasts are fundamentally different to that of a short-term rental host or operator and it is therefore not sensible to expect the same rules to apply.

Property used for traditional short-term rental is already subject to regulation – through fire and building regulations deemed appropriate to short-term rental. This approach accurately reflects the fact that this remains residential property that already needs to be compliant with relevant safety law. Nationally recognised Quality Assurance schemes and rating or review systems discourage harmful behaviour by operators and reduce risks for consumers. This contributes to higher quality services and potentially reduces the need for certain elements of regulation, provided adequate trust can be placed in the quality of the reviews and ratings.

It is proposed that all platform operators should adhere to the pre-existing regulations in place for traditional short-term rental.

Ensuring that operators are paying tax on the income accrued via short-term letting

Self-catering / short-term letting sits between domestic housing and commercial, and indeed our sector is defined in both camps, depending on who is defining us.

If a property is available for let for under 140 days, it falls within the Council Tax system; if it is available for let for over 140 days, the property falls into the business rates scheme.

The Barclay Review (August 2017) identified an avoidance tactic used by some property owners to avoid payment of council tax on second homes is to claim that the property has moved from domestic use (liable for council tax) to non-domestic use as a self-catering property (and liable for non-domestic rates). An application is made for SBBS (Small Business Bonus Scheme) and no rates are payable so the contribution to local services becomes zero. Currently the criteria to switch from the domestic to non-domestic use is fairly loose and only requires an intention to let out the property.”¹¹ To counter this avoidance tactic, the Barclay Review recommends

- That second home owners and owners or occupiers of self-catering properties must prove an intention let for 140 days in the year and evidence of actual letting for 70 days.
- Any application for SBBS from a self- property catering should require the ratepayer to provide similar information to the local authority on actual let periods before relief can be awarded.

The ASSC welcomes this recommendation and proposes that it applies to all short-term let operators and peer-to-peer hosts, regardless of their model of operation.

Responsibility for paying tax on income accrued via short-letting should always rest with

¹¹ Scottish Government., *Report of the Barclay Review of Business Rates (2017)*, p68. See: <http://www.gov.scot/Resource/0052/00523643.pdf>

the individual host or property owner. Platforms or property managers that facilitate the activity should not be held responsible.

Hosts already have to pay tax on the income they accrue via short-letting, and in most cases the homeowner pays a higher rate of income tax than the tax rates that apply to corporations. The overwhelming majority of hosts earn less than the £85,000 threshold for VAT.

The industry can play a role in helping hosts to understand their income tax obligations and believes that more can be done to raise awareness. The ASSC provides guidance on HMRC obligations to Members.

Ensuring that consumers are adequately protected and have trust in the services being offered

The STAA and ASSC believe that existing consumer protection laws are sufficient to protect consumers but would support any efforts designed to ensure that consumers are fully aware of their rights and what protections are in place.

In order to proactively contribute to the ongoing protection of consumers the industry has incorporated the following pledges into its Codes of Conduct:

- ensure that contact information is clearly visible on their websites;
- provide guests with dedicated contact details to register complaints or report any issues during their stay;
- ensure that terms and conditions are easily available on their websites, including cancellation policy and security door housekeeping deposits
- protect the personal data of guests in accordance with data protection and privacy law;
- undertake regular Fire Risk Assessments and show due diligence with regards to fire safety;
- comply with all health and safety standards which apply to short-term letting in the relevant jurisdiction, and to show a duty of care;
- provide guests with information on how to exit the building safely in case of emergency and emergency services numbers;
- delist guests who have been proven to be in serious breach of their terms and conditions, for example committing fraud or causing major damage;
- have in place relevant insurance protection including public liability;
- Ensure that the booking process covers terms of rental, to include:
 - Maximum number of occupants
 - Minimum age for lead guest
 - The lead guest to be responsible for any nuisance or damage
 - The apartment rental is for holiday (or business) purposes only and any other use, including parties, is by prior permission only
 - Visitors are not permitted to the apartment without prior permission

Ensuring that local rules are enforced

The industry believes it should educate its hosts and operators of what the local rules

and regulations are. However, it should not be the role of the industry to police the activity and be responsible for enforcement of the rules. There are already adequate means of enforcement that apply to short-lets and the focus should be on enforcing the law more effectively by raising awareness of the rules and the consequences of non-compliance

Introducing a register of all people who want to let their homes out for short periods of time, as some have argued, would be counterproductive and expensive to develop and maintain.

Planning Use Class Orders

In terms of planning, self-catering / short-term letting is considered to be 'residential': the character of the occupation has not changed for the purposes of planning. People stay for short periods and possibly for holiday purposes, but it is essentially their home for that period. It remains residential for planning purposes.

There is currently no planning class for short-term letting. Short-term rental properties are classed as Sui Generis - meaning "of its own kind" / "the only one of its kind", i.e. unique. Using the term Sui Generis allows the authority to be non-specific about the planning class.

In shutting down an apartment in Edinburgh, Edinburgh City Council cited a "breach of planning permission and material change of use for residential flat (sui generis) to short stay commercial leisure apartment (sui generis)". In terms of the classes order, if something is in the same classes order, it does not matter if things 'look different' or are different, you can continue to use it without Change of Use planning permission. Short-term letting is not identified as a Change of Use from residential.

Councils will need to offer a solid case to state that the occupation has changed from residential use and represents a material change of use.

Maintaining residential amenity

ASSC and STAA believe that there are already adequate means of addressing anti-social behaviour through existing law and while there are well-publicised examples of where guests have behaved irresponsibly, this is the exception and not the rule.

Having investigated two perceived problems of short term-letting: loss of residential amenity, and party flats, Edinburgh City Council's own study (in 2012) found that these problems happen far less frequently than anticipated, and subsequently came up with a solution to deal effectively with any problems using Antisocial Behaviour Notices (ASBNs) as enforcement. In Edinburgh, only three properties have been closed down as a result of complaint since 2015. There have only been 10 new cases (complaints against short-term commercial leisure apartments) raised in 2015/16, compared to 14 cases in 2014/15 and 19 cases in 2013/14.

Our businesses depend on operators / hosts and guests having positive experiences, and it is critical for local communities to not be negatively impacted. STAA would support the creation of local forums, or other lines of communication, that bring together all parties to tackle any local concerns.

To help maintain residential amenity ASSC / STAA have included the following commitments in its Codes of Conduct.

- communicate to guests that use of the property is for holiday or business only and any other use, including parties, is by prior permission only;
- communicate to guests that visitors to the property are not permitted without prior permission;
- communication to guests that the number of persons booked may not be exceeded;
- encourage all guests to be mindful of neighbours when coming in late, to not make excessive noise and to read the 'house rules' which should be provided;
- ensure cleaners or other service providers show respect to neighbours when such services are being performed;
- display a notice in the property or guest handbook asking guests to respect neighbours;
- have clear instructions for rubbish and recycling which meet the local guidelines for collection and responsible removal or ensure that rubbish is removed and uplifted at each changeover;
- provide dedicated contact details for members of the public or local authorities to register complaints.

5) Policy Recommendations

Introduce standardised clauses in residential mortgages to support short-

letting – Most hosts are likely to have a residential mortgage however recent analysis from consumer group *Which?* has shown that many high-street lenders may not always allow such properties to be used for short-term letting.¹² While some lenders such as Metro Bank have acted proactively to enable customers to rent out properties without prior approval, more work needs to be done to extend this to other providers.¹³ To remedy this both ASSC and STAA would support the introduction of a standardised clause included in all residential mortgages that would allow short-term letting up to a certain limit of days (180) per year. Above this would breach the terms of a residential mortgage and clients would have to switch to a buy-to-let mortgage. This clarity between residential mortgage and buy-to-let would be a further clarifying factor between amateur hosts and professional.

Support local business growth – ASSC and STAA members commit to encourage operators to share information about local businesses they can visit, and to help promote SMEs and greater tourism in the areas where they stay. ASSC would also welcome the establishment of partnerships with relevant stakeholders to drive local business growth and tourism.

Reduce VAT on professional visitor accommodation – ASSC and STAA support the BHA's proposal for reducing VAT from 20% to 5% on professional visitor accommodation

¹² Which?., 'Could listing on Airbnb put you in trouble you're your mortgage lender?', 21/07/17. See: <http://www.which.co.uk/news/2017/07/could-listing-on-airbnb-put-you-in-trouble-with-your-mortgage-lender/>

¹³ Metrobank., 'Metrobank boosts sharing economy with market leading approach to Airbnb', 17/11/16. See: <https://www.metrobankonline.co.uk/about-us/press-releases/news/metro-bank-boosts-sharing-economy-with-market-leading-approach-to-airbnb/>

(where VAT applies).

Increase awareness of insurance protections – Businesses must make clear to their users where coverage is provided, where hosts must have coverage and which insurance providers are recommended. STAA will continue to work with the Association of British Insurers to support insurance companies providing products that allow consumers to choose to conduct short-term lets and to ensure that consumers are aware that policies can't be invalidated when there is an unrelated claim and other top up insurance has been provided by a 3rd party company or platform.

Planning - Councils will need to offer a solid case to state that the occupation of a short-term let property has changed from residential use and represents a material change of use. The ASSC does not support a review of Planning Use Class Orders.

Regulations - Vice-President of the European Commission, Andrus Ansip highlighted that "Collaborative economy is here to stay and we need to adapt the legislation". The Commission's Communication on "A European Agenda for the Collaborative Economy" , published last June, also encouraged Member States to remove barriers and unjustified obstacles to the development of collaborative economy, therefore, the European Holiday Homes Association (EHHA) recommends that the main focus of EU legislators and national regulators should be on reducing unnecessary burdens and red-tape, not introducing new bureaucracy through ineffective licensing schemes or other barriers, which only serve to reduce competition in the marketplace. Moreover, EHHA stresses the need for the European Commission and Member States to work with the short-term rental industry to ensure that the development of the sector is balanced and successful. EHHA is convinced that there are no overriding reasons relating to the public interest that can justify policy and regulatory restrictions in the short-term rental sector.

The EHHA is also of the view that any regulations banning or that attempt to limit the number of nights a property may be rented, or the maximum number of times it may be rented, may constitute an attempt to limit competition and breaches the EU freedom to freely provide services. In particular, consumers should have the widest possible choices of places to stay, therefore rules that specify a minimum number of nights that a traveller may stay in short-term rental accommodation represent disproportionate and anti-competitive set of measures.¹⁴ The ASSC supports this view.

The ASSC, STAA and EHHA seek a playing field that is fair and proportionate, reflecting a diversity of business models rather than trying to regulate every form of accommodation as if it is the same.

¹⁴ EHHA., *Market Access Requirements for Accommodation Sector II* (March 2017)