



# Evidence submitted by Chartered Institute of Housing Scotland: 19 July 2019

## About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world including over 2,000 in Scotland.

Further information is available at: [www.cih.org](http://www.cih.org)

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## 1. General comments

- 1.1 CIH Scotland welcomes the opportunity to respond to the Scottish Government's consultation on short-term lets. We recognise that online platforms such as Airbnb have undoubtedly contributed to tourism and the economy in Scotland. They have allowed people to earn additional income from their homes and provided more choice for visitors. However, as short term lets have grown in volume and more residential homes are being converted permanently and without permission to holiday accommodation, we cannot ignore the impact that this is having on local residents and communities.
- 1.2 Edinburgh is now the most popular destination in Scotland for Airbnb guests but rural areas are also attracting more holiday makers and this can be a particular issue if there is already a shortage of housing. Analysis conducted for the CIH UK Housing Review showed that there is now one Airbnb letting for every 10 homes on the Isle of Skye and this is having a negative impact on some key workers including NHS staff.
- 1.3 We agree that regulation is needed and that it must be proportionate and, most importantly, enforceable. In developing a new regulatory regime, the Scottish Government must consider how the new regime will improve four key areas:
- **Impact on the housing market** - including displacement of local residents and increasing the cost of housing;
  - **Standards** - homes being used for short term lets must not be allowed to avoid repair and safety standards applicable to other types of let;
  - **Local communities** - the impact of transient guests on feelings of safety and security and the potential for antisocial behaviour; and
  - **Loss of revenue** - through local taxes and/or undeclared income.

## 2. 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 and briefly summarised above) which the Scottish Government should take into account when considering proposals for regulation?

- ☒ Yes  
☐ No  
☐ Don't know

Please explain your answer:

The data and summary of the impacts of short term lets set out in the consultation paper give a good overview of the extent of the growth of short term lets and reflect the findings of our



own

analysis. Analysis of Airbnb data was conducted for CIH to inform the UK Housing Review 2019. The analysis focussed on the growth of Airbnb lets in Edinburgh and on the Isle of Skye to provide insight into a non-urban setting affected by the growth in short term lets. It is important to recognise that while the growth in short term lets has not been evenly spread across the country, it is not an issue that is only confined to urban areas.

Analysis showed that there is one Airbnb listing for every 10 homes on the Isle of Skye and that this could be having an impact on key workers such as NHS staff. It also pointed to a growing number of non-traditional non-permanent homes being listed on the Isle of Skye including free-standing wooden pods, cabins, caravans and camper vans.

The UK Housing Review analysis is available on request.

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

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer:

Different types of letting can have different impacts on communities. Letting out a spare room for short periods of time can provide much needed accommodation for tourists or visitors and provide additional income for the household without completely converting the home from residential to holiday accommodation. In this sense, a framework that distinguished between different types of let would be beneficial.

However, regulations must also ensure that homes being used for short term lets meet minimum repair and safety standards and that platforms such as Airbnb are not being used to avoid regulations that apply to other forms of let.

It is also important to note that some of the issues with short term lets relate to the disruption caused to local residents, not just the loss of residential accommodation and this should also be taken into consideration. For example, frequent turnover of guests, even if they are renting out a spare room rather than a whole house, can create noise issues in flats with more people coming and going, possibly late at night. Strangers being given access to communal entrance ways can also pose a security risk and be unsettling for residents if they don't know who is supposed to have access to the communal areas of their building.

**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.

- ☐ Yes  
☒ No  
☐ Don't know

Please explain your answer:

While there may be potential benefits to this approach, differentiating between house types would add complexity to the regulatory system and would not address some of the key issues which we think must be addressed by the new regulatory regime. These are:

- **Impact on the housing market** - including displacement of local residents and increasing the cost of housing;
- **Standards** - homes being used for short term lets must not be allowed to avoid repair and safety standards applicable to other types of let;
- **Local communities** - the impact of transient guests on feelings of safety and security and the potential for antisocial behaviour; and
- **Loss of revenue** - through local taxes and/or undeclared income.

Tailoring rules to take account of different types of home might help to tackle some of the issues that have a greater impact on accommodation with shared entrances or with neighbours in close proximity such as noise disturbance, antisocial behaviour and security issues caused by keys being issued for communal entranceways or key boxes attached externally which may indicate that not all of the homes have permanent residents.

Using a detached house for short term lets may not have the same immediate impact on neighbours. However, this can be detrimental to the local area in other ways including loss of residential accommodation. Creating more favourable regulatory conditions for detached homes may result in more of these being used by hosts and potentially impact the supply of larger homes suitable for families.

The overall concentration of lets and the different types of home being let out must be considered.

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

No further comments.

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

We recognise that online platforms such as Airbnb can contribute to tourism and the economy in Scotland. They have allowed people to earn additional income from their homes



and

provided more choice for visitors. However, it is not clear from published data whether the spend being attributed to Airbnb guests is additional or whether this would have resulted anyway from guests staying in more traditional hotels and holiday lets.

Regardless of economic impact, as short term lets have grown in volume and more residential homes are being converted permanently and without permission to holiday accommodation, we cannot ignore the impact that this is having on local residents and communities.

Edinburgh is now the most popular destination in Scotland for Airbnb guests but rural areas are also attracting more holiday makers and this can be a particular issue if there is already a shortage of housing. Analysis conducted for the CIH UK Housing Review showed that there is now one Airbnb listing for every 10 homes on the Isle of Skye and this is having a negative impact on some key workers including NHS staff.

It is well documented that where unregulated short term lets are increasing at a significant rate issues can include:

- Displacement of local residents, increasing rents and house prices;
- Antisocial behaviour which is difficult to address because guests only stay for short periods of time;
- Security for other residents, especially in flats with a shared entrance; and
- Safety and fire hazards as standards are not applicable.

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

No further comments.

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

We have significant concerns that where short term lets are increasing significantly and without permission this can have a negative impact on the local housing market, reducing the supply of residential homes available, reducing choice for local residents and potentially increasing the cost of housing.

In addition, we are concerned that some owners are using Airbnb or similar platforms to avoid regulations that would apply to other types of let, in particular to homes in the private rented sector. It is essential that new regulations address this issue. Short term lets should be subject to the same repair and safety standards as private rented homes. This will help to ensure the safety of guests and remove an incentive for landlords to move from long term letting to short term letting.

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

As set out in the consultation paper, planning authorities may require planning permission to be sought for a change of use if the change is deemed to be 'material' but there is no clear definition of what this means, it is currently decided on a case by case basis by planning authorities and not being applied consistently. Successful cases in Edinburgh and Glasgow have been highlighted suggesting that current planning law can be successful if the local authority has the resource and inclination to make use of it.

The Planning (Scotland) Bill as passed on 21 June includes discretionary powers for local authorities to apply to have an area designated as a Short-term Let Control Area which would require permission to convert a home to a short term let. However, Ministers may set out criteria that would have to be met for a designation to be granted and it is not yet clear what this might be or how easy it would be for a local authority to gain permission for a Short-term Let Control Area. In developing any accompanying regulations, consideration should be given to the way in which criteria was set for Rent Pressure Zones (RPZs) introduced by the Private Residential (Tenancies) (Scotland) Act 2016. Experience to date has shown that local authorities who would wish to apply to have an area designated as an RPZ have been unable to do so because of strict criteria and lack of available data. We would not want to see similar restrictions making it impossible for authorities to use the new discretionary planning powers.

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

It can be difficult to deal with the behaviour of some short-term let guests because many only stay for short periods of time. Consideration should be given to the responsibility of hosts for the behaviour of their guests as private landlords are for the behaviour of their tenants.

We agree with the suggestion that online platforms should be more proactive in providing information for hosts and guests about their responsibilities and legal obligations.

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

We agree with the suggestion that communities and residents need to be given more information about how to make complaints. However, it will be equally important for residents to see that where complaints are made, actions are taken and rules are enforced.

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

As mentioned above, we have significant concerns that platforms such as Airbnb are being used to avoid regulations that apply to other types of let. The new regulatory framework should be working towards parity of standards across all rented homes.

It is our understanding that overcrowding is an issue in some short term lets where homes are being advertised as being suitable for many more people than would be allowed under HMO licensing which would pose an obvious fire risk.

We agree with the suggestion that hosts could be asked to confirm that their property complies with legal obligations at the point of let but it is not clear how this would be monitored or enforced without dedicated resources available to do so. Guests may give feedback on the safety of their accommodation if prompted to do so but it seems unlikely that they would pursue an issue beyond a complaint about the quality of accommodation if only staying for a short period of time. Neighbours and local authorities would likely have a key role to play in ensuring safety and repair standards are adhered to.

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

It is very concerning that some owners of short terms lets are not contributing to local taxes, especially since high turnover of guests could have a disproportionate cost to local services. We would have equal concern with any other tax systems being exploited by short term lets.

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

We agree that owners should be required to state an intention to let their home for a minimum number of days and provide evidence of actual lets in order to be considered for a tax exemption.

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

No further comments.

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

No further comments.

**Question 16:** Do you have any additions or amendments to the proposed design principles?

While we understand the need for the new framework to be flexible enough to respond to local needs and changes in circumstances, we would also like the new framework to aim for a degree of consistency in how short term lets will be dealt with – particularly in terms of



enforcing standards. The new framework should send a clear message that the enforcement of rules and regulations will be taken just as seriously for short term lets as for residential accommodation. Short term lets should not be seen as an easy way to avoid regulations such as those that private landlords and letting agents must adhere to.

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

As mentioned above, while we appreciate the need for a framework that is flexible enough to meet local needs, there must also be a degree of consistency in how short-term lets are dealt with. While this could be set out in the national framework, we have some concerns that the degree of flexibility set out in the consultation paper could be confusing. For example, the suggestion that different conditions could apply to different types of home and therefore a host with several different properties could have different permissions or requirements applying at each of the different homes (especially if working across local authorities with different conditions in place). If this approach is taken, clear guidance must be issued. Hosts and guests must be made aware of their responsibilities relating to each let.

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

The controls or conditions should allow local authorities to address whichever of the four key issues we have identified are having an impact in their local area:

- **Impact on the housing market** – including displacement of local residents and increasing the cost of housing;
- **Standards** – homes being used for short term lets must not be allowed to avoid repair and safety standards applicable to other types of let;
- **Local communities** – the impact of transient guests on feelings of safety and security and the potential for antisocial behaviour; and
- **Loss of revenue** – through local taxes and/or undeclared income.

**Question 19:** Do you have any comments on whether a licencing 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?

As stated above, the new regulatory regime should address all four key issues that we have identified. Different types, sizes or locations of homes may all present different challenges and issues depending on the local area. While we agree that local authorities need enough flexibility to meet the needs of local residents and visitors, we do have some concerns that applying different rules to different homes and different areas could create a system that is difficult to understand and enforce.





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

Limiting the number of days which a home can be let out for would seem to be a way to reduce the number of homes being converted permanently to short term lets. However, it is not clear how this rule would be enforced. The consultation paper suggests that the online platform should notify the host

when the limit had been reached but this may not be effective if the host uses multiple online platforms to let out their property. It also relies on the host adhering to the limit. It may be beneficial for the platform to notify the relevant local authority as well as the host when the limit has been reached in order to prompt an investigation if necessary.

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

Our primary concern is with the impact that short term lets are having on housing markets and local communities, not whether homes are being let out by an individual with one or two properties or someone working at a larger scale. We think the main distinction should be whether the home being let out is the main residence of the host – e.g. a spare room is being let out or the home is being let out for a short period while the owner is on holiday.

We think that all homes being let out, whether in part or in full, should have to meet minimum repair and safety standards and therefore, all hosts should have to register. Further powers should be used in areas where short term lets are having an impact on the housing market or local community and this may mean that measures have more of an impact on commercial hosts. For example, a local authority could allow hosts to let out their main residence for a specified number of days without any further permission being required. If the host was letting out homes that were not their main residence or letting them out for longer than the specified time limit, they could be required to seek permission.

**Question 22:** Do you have any comments on who should be subject to enforcement and sanctions?

Effective enforcement will be key to the success of the new regime. However, as stated above, we have concerns that the new regime will be difficult to enforce and will require significant resources. In developing the new framework, the Scottish Government should consider lessons that can be learned from the establishment of the landlord, property factors and letting agent registration systems. It is our understanding that under the EU Services Directive, the fees collected for these systems can only be used to cover the cost of the registration systems themselves, not for any enforcement action.



While

some of the other proposals in the consultation paper may generate income that could be used for enforcement, it is not clear at this stage which (if any) of these will be taken forward. It will be important to ensure that whichever system the Scottish Government decides to introduce, it must be enforceable and must have adequate resources in place.

The sanctions for failing to register or adhere to conditions must be set at a level that will encourage compliance.

We agree that sanctions or other enforcement action should be directed towards hosts and platforms, not to guests - except in cases of antisocial behaviour where guests should be held accountable if possible.

**Question 23:** Do you have any other comments on short-term lets not covered in your answers to the above?

No further comments.