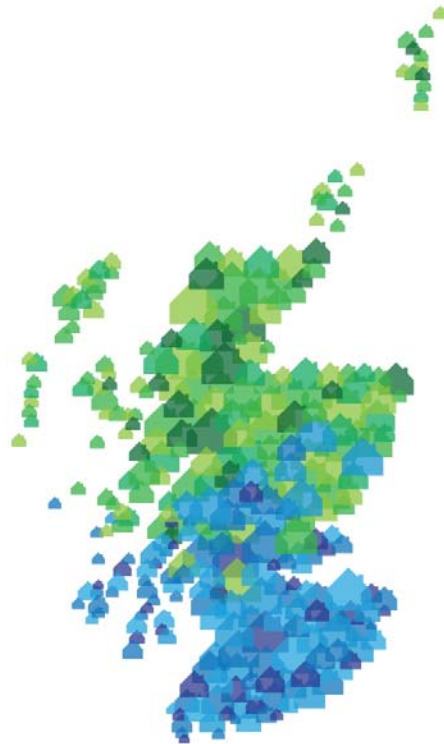


Scottish Expert Advisory Panel for the  
Collaborative Economy:  
Short-Term Rentals and  
Peer-to-Peer Accommodation



ASSC

Supporting self-catering in Scotland

21 June 2017

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## 1. What data or evidence can you provide on the social, environmental and economic impacts of the peer-to-peer accommodation market in Scotland?

There is substantial evidence regarding the positive economic impact of both the traditional and peer-to-peer short term rental accommodation market in Scotland. Estimates from *Scotland's Visitor Survey 2015* show that approximately 23% of all tourist visitors to Scotland stay in self-catering accommodation.<sup>1</sup> According to the recent study by Frontline Consultants<sup>2</sup>, commissioned by the Association of Scotland's Self-Caterers (ASSC), there are 16,949 self-catering holiday/short-term let properties in Scotland. The self-catering sector represents 3.4m visitor nights per year, where 1.8m are non-Scottish visitors. The study also showed that:

- The annual direct visitor spend is equal to £723.3 million (£470.1 million from non-Scottish visitors);
- Scottish self-catering supports 15,271 direct FTE jobs; and
- Self-catering / short-term rental provides £205.8 million in direct GVA contribution.

In terms of peer-to-peer accommodation, Airbnb's economic impact study identified that between 1<sup>st</sup> March 2016 and 1<sup>st</sup> March 2017, 5,400 active hosts in Edinburgh welcomed 411,000 guests and earned an average of £3,900 per annum. Moreover, Airbnb alone generated £361m to the Scottish economy, in the space of one year, from 12,600 hosts and their 802,000 inbound guests. The annual earning for a typical host is £3,600 per annum.<sup>3</sup>

The short-term rental sector is an integral part of the tourism mix and online platforms can bring benefits to traditional operators. The new collaborative economy online platforms offer traditional self-catering operators an alternative route to market and a wider audience.

The growth of short-term rental, both traditional and peer-to-peer, increases tourism opportunities, attracting guests who may not otherwise be attracted to Scotland, or stay as long, or return as frequently. Short-term rental is particularly significant in certain cities and during certain key events in the Scottish calendar, such as during the Edinburgh Festival and Fringe, with hosts making their homes available to cover the additional accommodation required, whilst making some extra income. A rise in the number of bed spaces through platforms such as Airbnb will boost the country's visitor economy, especially at particular points in the year where traditional hospitality accommodation is lacking.

Communities and local businesses, as well as events and visitor attractions throughout Scotland, benefit from both traditional and peer-to-peer accommodation providers. The sector promotes sustainable tourism and economic development. It is important to recognise that this is not just an urban phenomenon and the economic benefits are often spread beyond city centres and

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<sup>1</sup> 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)

<sup>2</sup> See:

[http://www.assc.co.uk/download/ASSC\\_Economic\\_Impact\\_Assessment\\_of\\_Short\\_Term\\_Lettings\\_on\\_the\\_Scottish\\_Economy\\_-\\_Final\\_Report\\_v1.3.pdf](http://www.assc.co.uk/download/ASSC_Economic_Impact_Assessment_of_Short_Term_Lettings_on_the_Scottish_Economy_-_Final_Report_v1.3.pdf)

<sup>3</sup> See: [https://united-kingdom.airbnb.com/wp-content/uploads/sites/48/2017/03/ScotlandOverview\\_v4.pdf](https://united-kingdom.airbnb.com/wp-content/uploads/sites/48/2017/03/ScotlandOverview_v4.pdf)

traditional tourism offerings. Moreover, some other points to note include:

- An area can be reinvigorated as a result of short-term rental (both traditional and peer-to-peer), with spending in local pubs, restaurants, cafes, and shops.
- Some peer-to-peer operators rent their accommodation occasionally to earn modest but significant supplemental income to help ends meet. The collaborative economy offers the opportunity to derive value from an asset and can provide an economic boost to hard-pressed families, communities and businesses.
- Peer-to-peer operators often let out their holiday homes, which would otherwise lay empty, generating income to local service providers (cleaners etc) and local shops and restaurants.
- A growth in platforms enables smaller businesses and individuals to reach new markets, particularly those based in rural or remote parts of the country.
- In a wider context, Scottish Government statistics suggest that half of all Scottish businesses are now based in the home. Self-employed people can yield an income from multiple sources. Self-employment offers a positive contribution to local economies and the Scottish economy as a whole. The Scottish Government should therefore support the freedom of individuals to sell their skills, labour or assets on an open marketplace. These people can all be seen as contributing to the collaborative economy.

## **2. How can we ensure that both hosts and guests are suitably protected, such as knowing where to turn if something goes wrong and that health and safety standards are adhered to? Where do we see best practice globally?**

In terms of hosts, education and a route to resources/support are the key to safeguarding both themselves and their guests. There should be a clear Scotland-wide policy to inform prospective operators covering the issues involved.

Building Requirements:

- Title deeds may restrict a host's ability to sub-let the property for short-term rental, or require Freeholder Consent. Breaching a legal obligation in the lease could result in risk of forfeiture.
- Short term lets may be excluded from a freeholders block building insurance policy.
- Mortgage lenders conditions may preclude sub-letting a property for short-term rental or business purposes.
- Buy to let mortgages require a 'shorthold' tenancy, with a minimum of 6 months tenancy.

Planning:

- There is no specific "class order" or classification in the planning system to cover self-catering or short-term letting. Self-catering or short-term letting is generally considered to be residential in planning terms.
- However, it can be covered by the term "sui generis", or in a class by itself – unique.
- Whether a property requires Change of Use planning permission is subjective and largely dealt with on a case-by-case basis, looking at the size of the property, the location, usage and pattern of activity: will the operation materially change the character of the property.

Traditional short-term let operators are already regulated. Operators, whether traditional or peer to peer, must have full public liability insurance as

well as specialist holiday home insurance. Other regulations apply. By way of example, but in no way exhaustive:

1. Carbon Monoxide: Since 1<sup>st</sup> December 2015, private landlords in Scotland are required by law to ensure that a property has satisfactory provision for warning if CO gas is present. It is also a legal requirement for holiday home owners to have a working CO alarm fitted in their property to ensure the safety of guests.
2. Gas Safety Certificate: Holiday home owners must have a gas safety check carried out on all gas appliances by a Gas Safety Engineer and have the Gas Safety Certificate renewed annually.
3. Fire Safety and Mains Wired Smoke Alarms: The Fire (Scotland) Act 2005 requires that anyone with responsibility for a premises must carry out a fire risk assessment, take reasonable fire safety measures to ensure the safety of others and keep risks and safety measures under review.
4. Electrical Safety: Since December 2016, landlords require an Electrical Installation Condition Report (EICR) for all rented properties. This does not cover self-catering, however, holiday home owners do have a legal obligation to ensure that electrical appliances are in safe condition for the use of guests. The Electricity at Work Regulations 1989 recommends that every electrical installation is subjected to periodic inspection and testing. We recommend this as best practice.
5. Portable Appliance Testing – PAT Testing: Landlords are legally required to have PAT testing carried out on any electrical appliances in a property (including ovens, fridge freezers and other white goods). Again, there is no legal requirement for holiday home owners, but annual PAT testing is best practice and recommended by the ASSC.
6. Furniture and Furnishings: The Furniture and Furnishings (Fire) (Safety) Regulations 1988 apply to all self-catering properties: holiday home owners must ensure that furniture supplied in the property is safe.
7. Legionella Risk Assessment: As a provider of self-catering accommodation you must ensure that the risk from exposure to legionella in your premises is properly controlled.

The ASSC has a full library of Guidance Sheets covering regulations, best practice and how to run a professional operation. We would advise that operators of traditional short-term rental exemplify best practice. The ASSC recommends that platforms build a check-list system into their registration/management system which they should actively enforce by requiring hosts to confirm that they are complying with their obligations / the required regulations. We further recommend that there should be one go-to organisation that hosts and operators can go to/get directed to by local authorities, online platforms and other agencies to get advice, support and information and who will promote best practice. We would respectfully suggest that the ASSC is the ideal solution here.

### **3. What are your suggestions for mitigating any unintended consequences of the short-term accommodation rental market and how they might be balanced with existing priorities and policies such as Tourism Scotland 2020?**

Short-term letting is a growing market, so it is now vital to define a framework within which this growing market can flourish and opportunities can be maximized to the benefit of the Scottish economy, as well as contributing to the objectives of the Tourism Scotland 2020 strategy.

Stephen Leckie of the Scottish Tourism Alliance has stated: "Tourism Scotland 2020 is a strategy for the industry, by the industry to make Scotland a

destination of first choice for a high quality, value for money and memorable customer experience, delivered by skilled and passionate people.” At the heart of the strategy is growth via quality, authentic visitor experiences. More and more visitors rely on short-term rental accommodation to achieve an authentic experience, and consumer behavior continues to support this view.

Destination towns such as St Andrews, Pitlochry and Oban, along with our internationally-renowned cities including Edinburgh and Glasgow, hold great appeal for leisure and business travellers alike, whether as destinations in their own right or as bases from which to explore the wider visitor offer that Scotland provides.

Guests using both traditional and peer-to-peer accommodation predominantly travel for vacation and leisure. They choose this form of accommodation because they seek an authentic local experience that cannot be fulfilled in other forms of accommodation. Indeed, 85% of Airbnb guests choose Airbnb so that they can “live like a local”.

**We consider short-term rental – whether via traditional operators or peer-to-peer operators – as essential to achieving the STA’s Tourism Scotland 2020 vision of an annual visitor spend of £6.5bn by 2020. Regulations should not be advanced which would damage an important part of Scotland’s vital tourism industry.**

Short-term rental has been a successful part of the Scottish tourism economy for years and is not a new phenomenon. However, the growth of the relatively new peer-to-peer model is causing some concern, especially in Edinburgh, and it is important to assess what the ‘unintended consequences’ are of this growth, if indeed there are any.

Andy Wightman, an MSP for the Lothian region, has issued a briefing paper on short-term lets<sup>4</sup>, which portrays short-term letting in a wholly negative light, alleging how home sharing can lead to a range of problems, including anti-social behaviour, a sense of loss of community among local residents, displacement of available housing for long-term residents and concern over security of premises. It is not possible to address all the points raised in detail, but in respect of the issue of anti-social behaviour:

- Having investigated two perceived problems of short term-letting: loss of residential amenity, and party flats, Edinburgh City Council’s own study 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<sup>5</sup>.
- In Edinburgh, only three properties have been closed down as a result of complaint since 2015. There were only been 10 complaints against short-term commercial leisure apartments raised in 2015/16, compared to 14 cases in 2014/15 and 19 cases in 2013/14<sup>6</sup>.

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<sup>4</sup> See:

<https://greens.scot/sites/default/files/20170403%20-%20Briefing%20Paper%20on%20Short%20Term%20Lets%20v.FINAL-1.pdf>

<sup>5</sup> See:

[http://www.edinburgh.gov.uk/download/meetings/id/36389/item\\_12\\_short\\_term\\_private\\_lets-review\\_findings](http://www.edinburgh.gov.uk/download/meetings/id/36389/item_12_short_term_private_lets-review_findings)

<sup>6</sup> See:

[http://www.edinburgh.gov.uk/meetings/meeting/4088/planning\\_committee](http://www.edinburgh.gov.uk/meetings/meeting/4088/planning_committee)

On a separate point, local authorities should have a common policy to cover issues such as waste management, which is becoming a contentious issue, especially in Edinburgh. If commercial waste pick up is taken in house by local authorities, there will no be added pressure on residential amenity of additional waste trucks picking up waste on sporadic days and at sporadic times. The council can, as they do in Argyll & Bute, charge for the service, covering the service costs and increasing income for alternative activities.

#### **4. What solutions are there to ensuring that the relevant taxes are identified and collected and that regulations are adhered to?**

Traditional operators already pay appropriate taxes in terms of Council Tax or Business Rates. Peer-to-peer operators should comply with these taxes.

As mentioned, the ASSC recommends that platforms build a check-list system into their registration/management system to ask hosts to confirm that they are complying with their obligations and the required regulations. Local authorities should have the ability to carry out spot checks on operators and if regulations are being flouted, should have the ability to charge both the host and the platform, passing on some responsibility to the platform. It is our recommendation that no 'registration' system should be implemented.

Peer-to-peer hosts should be required to notify their properties with local authorities. Platforms could be charged with passing on data about hosts to local authorities, so that authorities and other bodies can enforce regulation compliance.

#### **5. How can we ensure that any regulations are proportionate, taking account of the range of hosts on platforms - occasional use individuals, professional landlords, estate agents and hotels, whilst ensuring that there is no competitive advantage between platforms and traditional business models?**

The ASSC believes that Scottish policymakers should work with the short-term rental industry to ensure that the development of the sector is balanced and successful.

Hotels, professional landlords and estate agents operate under separate regulations, which have been developed for their very different sector, and should not be confused with the short-term rental sector. In addition, an increase in non-domestic activity by self-employed individuals raises questions as to whether traditional regulations are fit for purpose.

Policy should be based on the substantial variety of business models that have developed in recent times. The regulatory system needs to be able to adapt more quickly to the changing economy. Business regulations perhaps need to be revisited with this in mind, ensuring that they are fit for purpose and relevant to the various models. Principles of better regulation should be applied, including that regulations are consistently applied and enforced, and that regulations are proportionate to the level of risk.

Peer-to-peer accommodation providers of short-term rental should comply with the same regulations as traditional operators. They should also be included in the Business Rate scheme if the property is available for let for over 140 days, and comply with FHL taxation rules.

Platforms bring challenges to individual or traditional operators. A small number of market leaders in the sector dictate the terms of trade, which can include substantial fees and charges. This is then forcibly passed down to individual operators.

Platforms also have significant resources to spend on advertising and promotion, resulting in independent traditional operators being swallowed into an unidentifiable position. It is proving more and more essential for traditional operators to be represented on a platform simply to be seen. This gives an unfair competitive advantage to platforms. Regulators should ensure that platforms are not exploiting their dominance of the marketplace.

The ASSC understands that work is underway to introduce a digital assessment as part of the amend Business Regulatory Impact Assessment (BRIAs) process to ensure that any new regulations do not advantage either peer-to-peer platforms or traditional operators. The ASSC welcomes this.

## **6. What are your suggestions for any amendments to existing regulations or new regulations?**

The 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<sup>6</sup> also encouraged Member States to remove barriers and unjustified obstacles to the development of collaborative economy. The ASSC’s colleagues at the European Holiday Homes Association (EHHA) recommended 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. The ASSC concurs with that approach.

Regulations throughout the industry should be simplified, not added to; and regulatory burdens on businesses should support and encourage growth, not stifle it. Government should take a bottom-up approach and engage with short-term rental accommodation operators and online platforms in order to agree on regulatory solutions (if needed at all).

Any form of new register of short-term letting would be seen as a negative step, and one that would be impossible to police. The ASSC would be against this form of enforcement.

Any additional regulations should not adversely impact traditional businesses, or increase business costs (Scotland is one of the most expensive destinations worldwide – it is not possible to assimilate more business cost without having to pass those costs on to guests). All accommodation providers should be compliant.

The ASSC would recommend that new regulations relating to traditional short-term rental are not required. Some regulations may, however, need to be revisited to ensure that they are fit for purpose, as discussed above.

All self-caterers have their own terms and conditions, which limit numbers and set out acceptable codes of behaviour. However, the ASSC would like to work with city councils to develop and propose a Code of Practice to cover short-term letting in city centres, addressing the issue of loss of residential amenity. It is

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<sup>7</sup> See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:356:FIN>

hoped that this will ease existing and potential issues and encourage a harmonious existence between residential and short-term let apartments. The ASSC has drafted a Code of Practice for short-term let operators, which may facilitate this, which has been presented to Edinburgh and Glasgow City Councils, and Glasgow City Marketing Bureau, as well as Airbnb, who have all reacted to it positively.

The ASSC recommends that adherence to a common Code of Practice, covering the above-mentioned regulations and best practice is the key to ensuring a level playing field and the sustainable growth of the sector. By adhering to such a Code, it would offer comfort to:

- Hosts – with knowledge of regulations and obligations, hosts can be confident that they are operating within legislation according to best practice.
- Guests – trust that the accommodation is safe and operating according to best practice.
- Local authorities – if an operator does not adhere to the Code of Practice, and receives complaints, they would have a mandate to stop the operator trading.
- Residents – Accommodation run according to the Code of Practice will minimise loss of residential amenity.

Operators not prepared to sign up to the Code of Practice, understanding that their operation could be stopped, would be disincentivised. The ASSC proposes that the Scottish Government, local authorities and P2P platforms all promote the ASSC Code of Practice, and promote membership of the only trade body representing the sector and promoting best practice.