

**Scottish Expert Advisory Panel for the Collaborative Economy**  
**Short Term Rentals and peer to peer accommodation**  
**21 June 2017**

The Scottish Expert Advisory Panel for the Collaborative Economy would like you to consider the following questions and submit your responses, ideally limited to four pages, by close on 16 June.

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

*FSB has not collected any specific data relating to peer to accommodation and others will be better placed to discuss this.*

*Moving forward, importance of improving data collection should be discussed. For example, the review might consider whether certain regulators need to take account of different sectors when recording information about businesses. This matters because data is required to make informed judgements about the impact, particularly in relation to regulatory risk, of differences between business models. In recent years, attempts to understand whether or not there was a need for fire safety guidance specifically aimed at B&Bs, and the requirements of such guidance, were complicated by the lack of data about incidents occurring in B&Bs – most statistical information only referred to domestic incidents (in houses) or hotels.*

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?

*Our evidence suggests that most business owners feel they are complying with their regulatory responsibilities. However, as business models have changed, and more individuals may be generating an income, as opposed to running a business, we think it likely that regulatory lines have become blurred – both in relation to physical safety of guests, as well as wider consumer and legal protections for guests and hosts.*

*As outlined in our original evidence to the review, we attempted to address some of these issues by working with the Scottish Government, local authorities, regulators and other organisations, to provide a guide to running a business from home. While this did not address every regulatory grey area, it provided some clarity for businesses. This approach considers the importance of awareness-raising and support and there will be many other similar examples of good practice. Before this is possible, however, clarity on regulatory responsibilities in relation to providing accommodation, would be required.*

*In most, though possibly not all, instances, the existing regulatory framework helps provide a basis from which we can understand what basic compliance (the minimum required to keep people safe e.g. safety of the building, including basic risk management, insurance) might look like. However, this approach assumes a limit to our tolerance of risk, suggesting that all operators should meet a level of regulatory compliance, similar to that expected of all businesses (regardless of size). Understanding where the balance of risk should lie, in relation to protecting both operators and consumers is, of course, a matter of judgement for the review. We*

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*have highlighted that, in our view, the current uncertainty and lack of level-playing field cannot continue.*

*Lastly, while good, consistent enforcement is key to better regulation, it does not follow that new business models should go un-regulated because regulators lack resources for any additional activity. The shortage of frontline regulatory staff has been highlighted, and broadly ignored, for many years. This is obviously a factor which will influence decisions about regulation but it cannot mean ignoring new problems. Instead, it should mean overhauling existing approaches to ensure a fairer, more consistent approach.*

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?

*This is difficult to answer until the review has considered the evidence and determined the extent to which there have been real consequences on different markets.*

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

*Tackling tax avoidance and improving tax collection and likely to be priorities for both HMRC and local authorities – their evidence will be crucial in determining the extent to which tax and regulations are not being collected/adhered to.*

*As outlined above, in our guidance for home based business we have provided information regarding payment of council tax and non-domestic rates as it relates to non-traditional business premises. While there are general rules, in some instances the council will have to make a judgement on a case-by-case basis. Again, in relation to short-term letting ignoring inconsistency is unacceptable. A nationally-agreed approach to payment of non-domestic rates or council tax would be preferable. Additional tax collection issues are a matter for HMRC.*

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?

*As highlighted above, we do believe that inconsistency exists in the accommodation sector. Indeed, it has been a feature of the sector for many years, with frequent complaints about seasonal, 'unofficial' B&Bs, which were felt to be non-compliant with any safety regulation.*

*What has changed, perhaps, is the prevalence of new operators and their market share. This brings both the possibility (likelihood?) of an increase in the level of risk for consumers, as well as an increase in the inconsistent approach to operators.*

*Proportionate approaches are already found across many regulatory areas. As mentioned above, fire safety requirements vary according to the type and size of*

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*sleeping accommodation and, in general, health and safety requirements are proportionate to the level of risk presented by the business activity and where it takes place. If the review determined that a more consistent approach to regulation was required, then there are examples of how this can be done in a proportionate manner.*

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

*Again, we might be better placed to consider this once evidence on problems has been considered. We have referred to health and safety (including fire) regulations here, since these crop up most frequently in discussions about physical safety. However, there are likely to be other regulatory matters (for example in relation to waste, water, consumer protection, insurance, mortgages etc) which require consideration.*