



James Dornan MSP  
Convener  
Local Government and Communities Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

9 February 2021

Dear James

## **SHORT-TERM LETS RESPONSE TO POINTS RAISED DURING EVIDENCE SESSION**

During the evidence session on short-term lets on 3 February, we undertook to respond to the Committee on two points raised during the session. Before I address those points, I would like to take the opportunity to address some wider points.

Committee members have heard representations from the tourism industry expressing concerns about the impact of the short-term lets licensing scheme. I am writing to reassure members on the appropriateness and proportionality of the scheme and the Scottish Government's on-going willingness to listen.

**The only aspect of our proposals that applies to all short-term lets across Scotland relates to basic safety.** At the heart of our licensing scheme are a mandatory set of safety standards. Safety matters - whether someone is sharing their own home or letting a portfolio of properties, in rural Skye or in central Edinburgh. Many hosts will already be following the standards set out in our licensing scheme as a matter of compliance with existing law or best practice. We do not consider them to be onerous.

**Local authorities have wide discretion over other features, such as whether to set any additional conditions, what fees to charge and how long licences last.** Local authorities will have discretion to add further conditions to address local needs and concerns. Our proposals **give local authorities flexibility and autonomy** on what, if anything, is needed to supplement the basic safety standards and they can nuance any further conditions by area or premises. Local authorities in areas where there are no complaints about short-term lets may wish only to require hosts to comply with the basic safety requirements.

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The licensing order allows the initial licence to be granted for a period of up to three years. Subsequently, the renewal period is not constrained, so local authorities can choose to set as long a renewal period as they like; they might choose to set a long renewal period for premises where no issues or problems have arisen.

In addition to the licensing scheme, local authorities will also be empowered to implement short-term let control areas, entirely at their discretion, in order to address pressures created by secondary short-term letting.

We believe our proposals are right for Scottish circumstances, and give local authorities a great deal of flexibility in order to balance the needs and concerns of their local communities, with the wider economic and tourism benefits in their areas.

### **Tourism recovery and working group**

The Scottish Government understands the pressures facing the tourism industry as it recovers from the COVID-19 pandemic. The Scottish Government has been supporting the tourism and hospitality sector through the pandemic in every way possible, given the limits of devolved power. Regulation of short-term lets has an important role to play in supporting a strong recovery of responsible and sustainable tourism in Scotland.

I advised the Committee on 3 February that we have established a stakeholder working group to develop guidance on the licensing scheme and control areas that is clear, comprehensive and easy to understand. The working group will look at how to make the process of applying for a licence and operating within the terms of the scheme as simple and streamlined as possible. Self-caterers, B&B operators and rural interests are represented on the stakeholder working group.

Subject to the approval of the legislation by the Parliament, the first meeting of the working group is on 18 February. We look forward to working with stakeholders as we develop the guidance, and we will publish regular updates about the work of the group on our website.

### **Open and pragmatic approach**

I have asked that the stakeholder working group actively explore solutions to issues raised by operators, with a view to identifying any changes to the legislation that may be needed. These issues include the treatment of traditional B&Bs and concerns about the cost of complying with minimum Energy Performance Certificate (EPC) ratings.

I understand the concerns expressed by hosts and operators about achieving EPC standards. I also understand that, for some older buildings, it can be both costly and technically challenging to improve the energy efficiency. I have asked the working group to consider this issue and I am open to finding ways to resolve the challenges faced by the sector.

### **Monitoring and evaluation**

I have been very clear throughout that we will monitor and evaluate the impact of our proposals to ensure that they are effective and targeted. I have also set out that we are willing to legislate in the next Parliament if we need to make changes.

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However, I believe it is right we are taking action now to ensure that all short-term lets across Scotland adhere to a common set of safety standards. Our proposals will allow local authorities and communities facing the most severe pressures to take action to manage those more effectively. The proposals will not unduly curtail the many benefits of short-term lets to hosts, visitors and the Scottish economy.

As we move forward, we will continue to keep Parliament updated.

### **Licensed bed and breakfasts (B&Bs)**

Turning to the Committee session on 3 February, Sarah Boyack asked: *How many [traditional bed and breakfast operators] are already licensed under the Licensing (Scotland) Act 2005, and how many more are expected to be covered by the order?*

The day to day administration of the alcohol licensing regime under the Licensing (Scotland) Act 2005 is the responsibility of the 32 independent Licensing Boards. The Scottish Government compiles and publishes statistics on premises and personal licences based on an annual return from the Licensing Boards (see: [www.gov.scot/publications/scottish-liquor-licensing-statistics/](http://www.gov.scot/publications/scottish-liquor-licensing-statistics/)).

The total number of premises licences in force on 31 March 2019 were as follows:

<b>Total number of premises licences in force</b>	<b>16,722</b>
On-sale licence	11,631
Off-sale licence only	5,091

The total number of on-sale licences covers a range of premises, including hotels, guest houses and B&Bs, as well as pubs, restaurants and other venues. We do not hold data on the total number of premises licences broken down by premises type. Applicants for a premises licence may or may not indicate they are a guest house or B&B in the description they provide to local authorities as part of their application.

For context, we are aware of around 1,900 B&Bs and guest houses operating in Scotland comprising around 1,500 on the non-domestic rates roll and over 400 successful applications to the B&B Hardship Fund in 2020.

Guest houses, and premises with a licence under the Licensing (Scotland) Act 2005 where accommodation is an approved activity, are excluded from the short-term lets licensing scheme.

### **Ministerial approval of control areas**

Andy Wightman referenced the 2020 consultation document (paragraph 5.14):

“The conservation area process requires some form of consultation (not specified in legislation) and notification to Ministers for approval.”

He then referenced section 62 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, which requires planning authorities to give notice to Ministers “of the designation of any part of their district as a conservation area”.

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Andy Wightman asked: *Which legislative provision provides that ministers must consent and approve conservation areas?*

Mr Wightman is correct in highlighting that Ministers do not directly approve the designation of conservation areas. Paragraph 5.14 of the consultation paper is inaccurate in stating that they do. I apologise for this error. However, the consultation paper was clear that we intended that Ministers would approve control areas and we sought views on this basis.

In considering and approving control areas, the Scottish Ministers will seek to satisfy themselves that the proposals are justified and that the planning authority has followed correct procedures in regard to consulting with, and taking account of the views expressed by, the community including residents and operators of short-term lets. The approval process will not be onerous. I consider that it is right that Scottish Ministers have a role in ensuring that control areas are used appropriately.

It is not new that Scottish Ministers approve the designation of areas where specific planning measures apply. For example, Ministerial approval is required for the designation of areas under Article 4 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, the creation of areas of special control under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 and Special Development Orders under the Town and Country Planning (Scotland) Act 1997.

The effect of a conservation area is to require planning permission for the demolition of buildings or structures in the designated area. Historically, many conservation areas overlap with areas subject to an Article 4 direction setting out restrictions on the extent of permitted development rights or removing these rights altogether, and it is this direction that Scottish Ministers are required to approve. Changes to the General Permitted Development Order introduced in 2012 restricted the application of householder permitted development rights in conservation areas, reducing some of the need for an associated article 4 direction to set out restrictions intended to preserve the character of the designated conservation area. An article 4 direction does not need to be associated with a conservation area.

I hope the Committee finds this information helpful.

Kind regards

**KEVIN STEWART**

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