

PLACE DRAFT Recommendations to the Scottish Government Working Group on Short-Term Lets.



Background

PLACE is a grassroots network of residents personally affected by the rapid expansion of largely unlawful whole property short-term lets in our buildings and communities. We are very concerned about the absence of community representation on this working group.

The network was set up in Edinburgh, in April 2019 to share information on how to report short-term lets operating in breach of planning regulations or title conditions; and to lobby the City of Edinburgh Council and Scottish Government to take action to protect residents' rights to peaceful, private, safe and affordable homes.

We present the following seven recommendations to your working group to address existing risks, which would result in the licensing scheme and legislation being ineffective from the perspective of residents and neighbours. We detail the lessons learned by other cities in addressing these specific risks, and link to the extensive legal case precedent here in Scotland regarding the impact of unlawful and unsafe short-term lets on communities. We also highlight the risks to the responsible tourism industry, during the period of recovery from Covid, of losing business and reputation to irresponsible and unsafe lets.

Our Recommendations

Based on our current understanding of matters, we hope that the legislation is approved by the Scottish Parliament, but only subject to these further vital amendments:

1. B&Bs are excluded from the legislation OR included but a cap is placed on the cost of their license (our preference is probably for the latter to create a level playing field across the whole sector, and prevent the creation of a loophole which enables “ghost hotels”).
2. A clear definition of home-sharing is created which defines the line between home-sharing and a B&B commercial business.
3. Local authorities need to be able to bring in the licensing legislation earlier than 2023.
4. A mandatory check on planning permission, as minimum, for flatted/shared properties.
5. The definition of short-term letting activity is updated to include advertising a short-term let and the license number is required to be shown on every advert.
6. Remove the ‘10 year rule’ which circumvents planning permission for some short-term lets.
7. Multinational companies such as Airbnb, are removed from the Scottish Government working group issuing guidance on the implementation of this legislation.

Our Recommendations, risks, and lessons learned from other cities

	Recommendation	Consequence not implementing recommendation	Risk	Experience of other cities
1	<p>B&Bs are excluded from the legislation <u>OR</u> B&Bs are included but a cap is placed on the cost of their license (our preference to avoid incentivising “ghost hotels”).</p>	<p>There is a proliferation in “ghost hotels”.</p> <p>Short-term let owners re-list their property to rent the rooms individually, to evade regulation.</p>	<p>Licensing is ineffective.</p> <p>Ongoing disturbance to neighbours.</p> <p>Homes continue to be lost.</p> <p>Lawful accommodation providers lose valuable business and reputation to unlawful lets.</p>	<p>New York - Research in NYC in 2018 found there are 4,700 private room listings that are in fact “ghost hotels” comprising many rooms in a single apartment.</p> <p>Barcelona - “Barcelona’s latest proposal is partly aimed at closing another potential loophole in its prior restrictions. The city fears that these unlicensed apartments could now be relisted as hosted accommodation — that is, flats where the owner is present throughout the stay. In many cases, this would likely be fraudulent, with the apartment merely posing as a hosted letting when the landlord in fact lives elsewhere.”</p> <p>Edinburgh and Glasgow - 2/40 (5%) of the DPEA cases relating to unlawful short-term lets in tenements have been “ghost hotels”. Other cities find this increases when whole homes letting is regulated more strongly. An example of an Edinburgh ghost hotel is described here.</p>
2	<p>A clear definition of home-sharing is put in place which defines the line between home-sharing and a B&B or whole home commercial business.</p>	<p>Short-term let owners evade regulation by registering their commercial property as the primary home of a friend or family member, and continue their commercial business under</p>	<p>Licensing is ineffective.</p> <p>Ongoing disturbance to neighbours.</p> <p>Homes continue to be lost.</p> <p>Lawful accommodation providers lose valuable business and reputation.</p>	<p>Edinburgh and Glasgow - Existing case law informs us where short-term letting has had unlawful impacts on the neighbouring amenity and safety and must not be given a license. Examples include: Ratcliffe Terrace (30 days), Drumdryan Street (summer only), Succoth Court (summer only), Baxter’s Place (minimum 1 week stay), and Nemcova v Fairfield in London (7 lets over 90 days). Cases at</p>

	This definition must be set using legal precedent.	a home sharing license. A poorly implemented home-sharing allowance would still cause amenity and security impacts for neighbours.		Grassmarket, Milton Street, Baxter's Place, Crighton Place, Pilrig Heights all describe the negative impact on neighbouring <u>security</u> . Case law tells us the type of building, turnover of lets and the number of days must be considered when setting a home sharing allowance. <u>Singapore, New York, Palma, Hong Kong, Barcelona, Istanbul</u> - These are examples of cities which do not allow any short-term letting in most apartments due to impacts on neighbours.
3	Some local authorities need to be able to bring in the licensing legislation earlier than 2023/24 to deal with the untenable numbers of unlawful short-term lets in their area.	Unlawful activity continues to plague cities until 2023/24.	Licensing is ineffective. Ongoing disturbance to neighbours. Homes continue to be lost. Lawful accommodation providers lose valuable business and reputation.	<u>Amsterdam, Athens, Barcelona, Berlin, Bologna, Bordeaux, Brussels, Cologne, Florence, Frankfurt, Helsinki, Krakow, London, Milan, Munich, Paris, Porto, Prague, Utrecht, Valencia, Vienna and Warsaw</u> - Have formed an alliance raising the strongest concerns about the impacts of the proliferation of short-term rentals. Scotland is already significantly behind these cities in taking action. Edinburgh - The City of Edinburgh states "The operation of commercial short-term lets is the most significant concern of the City of Edinburgh Council".
4	A mandatory check on planning permission, as minimum, for flatted/shared properties.	Licenses are given for properties for a short-term letting use which would be refused planning permission. This is extremely likely in flatted properties.	Licensing is ineffective. Ongoing disturbance to neighbours. Homes continue to be lost. Lawful accommodation providers lose valuable business and reputation.	<u>Edinburgh, Glasgow, Midlothian and Borders</u> - Each of these local authorities have closed short-term lets operating in breach of planning regulations. These are largely, although not exclusively, in tenements where short-term lets are deemed to cause unacceptable safety and amenity impacts. Indeed there is only one historical DPEA decision, which has ever allowed a short-term let in a shared tenement. It is unlikely the same decision would be made today.
5	The definition of short-term letting activity is updated to include advertising a short-term let and the	Unlawful short-term lets will advertise freely and without consequence.	Licensing is ineffective. Ongoing disturbance to neighbours.	Paris - There were initially huge issues with compliance . Since 1st December 2017 Airbnb renters have been required to secure a "registration number" for each listed property but by mid-January 2018, roughly 80% of the platform's listings had

	<p>license number is required to be shown on every advert. This is already the case for long term lets.</p>	Licensing is ineffective.	Homes continue to be lost. Lawful accommodation providers lose valuable business and reputation.	<p>failed to do so, according to a study by Le Figaro.</p> <p>San Francisco - Changed the law to demand platform accountability so that all listings were required to display a valid license number. The number of STLs dropped from 18,000 to 2,500, leaving only legitimate businesses.</p> <p>The facility for a valid license number already exists within the Airbnb platform. See here.</p>
6	<p>Remove the ‘10 year rule’ which circumvents planning permission for some short-term lets.</p>	Unlawful short-term lets, which have unacceptable impacts on amenity, will gain planning authorisation due to inaction by the government for over 10 years.	Licensing is ineffective. Ongoing disturbance to neighbours. Homes continue to be lost. Lawful accommodation providers lose valuable business and reputation.	<p>Edinburgh - The City of Edinburgh Council first reported the scale of the problem regarding short-term lets to the Scottish Government in 2017. If the Scottish Government further delays licensing until 2023/24, the ‘ten year rule’ will be used to make a significant proportion of short-term lets which have unacceptable impacts on neighbouring amenity, actually lawful, simply through inaction.</p>
7	<p>Multinational companies such as Airbnb, Expedia and Booking are removed from the Scottish Government working group issuing guidance on the implementation of this legislation.</p> <p>The Scottish Tourism Industry is better represented by organisations including the ASSC, Scottish B&B Association, Scottish Tourism Alliance.</p>	<p>These companies will have undue influence on a committee which already lacks resident representation.</p> <p>Licensing legislation and guidance will be watered down and made ineffective.</p>	Licensing is ineffective. Ongoing disturbance to neighbours. Homes continue to be lost. Lawful accommodation providers lose valuable business and reputation.	<p>Amsterdam, Athens, Barcelona, Berlin, Bologna, Bordeaux, Brussels, Cologne, Florence, Frankfurt, Helsinki, Krakow, London, Milan, Munich, Paris, Porto, Prague, Utrecht, Valencia, Vienna and Warsaw - Have formed an alliance raising the strongest concerns about the impacts of the proliferation of short-term rentals on housing stock, and and large platforms not sharing data for enforcement.</p> <p>The European Holiday Home Association is a lobbying organisation representing platforms (Airbnb, Expedia) on this working group. Independent research shows they are persistently lobbying to fight cities’ attempts to protect affordable housing.</p>