

PLACE Edinburgh
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24 March 2021

Dear PLACE,

Thank you for the recommendations document which you provided for consideration by the Scottish Government's working group on short-term lets, which you sent on 8 March. I have set out a response to each of your seven recommendations below.

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 or whole home commercial business.

The working group are exploring a range of issues, including those arising from the inclusion of traditional B&Bs within the definition of a short-term let. We are aware of concerns raised by B&B operators and others. However, as the Minister for Local Government, Housing and Planning set out to the Local Government and Communities Committee on 3 February, we need to consider carefully any changes to avoid unintended consequences or creating anomalies.

We anticipate that licences will distinguish between home sharing, home letting and secondary letting. It would be an offence to make a false or misleading statement on a licence application.

3. Local authorities need to be able to bring in the licensing legislation earlier than 2023.

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We understand that residents and communities are keen to see licensing legislation brought in as soon as possible.

Subject to the outcome of the election, this Government intends to relay the Licensing Order in June and remains committed to the following timescales:

- 1 April 2022 – for local authorities to open a licensing scheme;
- 1 April 2023 – for all existing hosts to have made an application for a licence; and
- 1 April 2024 – for all hosts providing short-term let accommodation in Scotland to be licensed.

The Scottish Government believe these timescales strike the right balance between giving local authorities time to establish licensing schemes in their areas, hosts time to understand the requirements and apply for a licence, and making progress to address what remains a pressing issue for some residents and communities.

Local authority discretion to set earlier deadlines has been removed, and this will make the scheme easier to understand and enforce for all those working across local authority areas. It also has the effect of giving existing hosts in Scotland until 1 April 2023 to apply for a licence.

4. A mandatory check on planning permission, as minimum, for flatted/shared properties.

Within control areas, planning permission will always be required for any change of use of a dwellinghouse to secondary letting. In these areas, planning permission will be a mandatory condition of licence, as set out in Schedule 3 of the draft Licensing Order.

Outside control areas, local authorities will consider on a case-by-case basis whether a change of use to use for short-term letting constitutes a material change of use and therefore whether or not planning permission is required.

We will issue guidance on both: what factors indicate a material change of use with respect to the use of homes as short-term lets outside control areas; and relevant considerations in determining a planning application in respect of change of use to a short-term let in any area.

The draft Licensing Order does give local authorities the power to refuse to consider a licensing application if it considers the use of the accommodation would breach planning control.

Local authorities could set out specific licensing and planning policies in respect of the use of flatted accommodation for short-term lets in their area and use the licensing application process to enforce them.

As with any development or change of use, it is the responsibility of the landowner to ensure that they comply with planning legislation and that planning permission is obtained where required. Where a licence is granted, this does not override any need to obtain and comply with planning permission.

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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.

It will be an offence for a host to operate without a licence. The primary duty rests with the host to cease advertising and cease operating. When a licence is refused or revoked, the host must take down listings on platforms. This is set out in more detail in paragraph 7.21 of the [consultation report](#) which was published in December.

Schedule 3 of the draft Licensing Order set out a number of mandatory conditions which apply to all short-term let licences. These conditions largely relate to basic safety standards, but also require licence holders to ensure that any listing or advert includes the licence number.

6. Remove the “10 year rule” which circumvents planning permission for some short-term lets.

The “10 year rule” is set out in the Town and Country Planning (Scotland) Act 1997 rather than in the regulations on short-term let control areas. It acts as a limitation on enforcement action against a change of use in breach of planning controls. The Scottish Government does not consider that significant numbers of short-term lets would meet the requirements to benefit from the “10 year rule”.

There are no plans to change this provision in the 1997 Act at the present time.

7. Multinational companies such as Airbnb, are removed from the Scottish Government working group issuing guidance on the implementation of this legislation.

Representation on the working group reflects the diverse nature of the short-term letting sector. The main platforms are represented on the group, as they will have an important role in communicating the requirements of the licensing scheme and guidance to their hosts, as well as helping to ensure compliance.

Information on the working group, including membership, papers and minutes have been published, and can be found here: [Short-Term Lets Stakeholder Working Group - gov.scot \(www.gov.scot\)](https://www.gov.scot/Short-Term-Lets-Stakeholder-Working-Group)

Invitation to join working group

Following representations made by PLACE and other residents attending our sessions on 9 and 11 March, we would like to invite two resident and community representatives to join the working group representing rural and urban residents. We would be grateful if you could confirm that a representative from PLACE would be willing to attend the working group on behalf of urban residents. The next meeting of the working group is currently scheduled for 13 May.

I trust that you find this reply helpful.

Yours sincerely,

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David Manderson
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