



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 7 February 2023

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
4th Meeting 2023, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Paul McLennan (East Lothian) (SNP)

Marie McNair (Clydebank and Milngavie) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Julia Amour (Festivals Edinburgh Limited)

Fiona Campbell (Association of Scotland's Self-Caterers)

Rob Dickson (VisitScotland)

Professor Cliff Hague (Cockburn Association)

Ruth Maguire (Cunninghame South) (SNP) (Committee Substitute)

Gillian McNaught (Glasgow City Council)

Ailsa Raeburn (Community Land Scotland)

Gary Somers (Highland Council)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 7 February 2023

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the fourth meeting in 2023 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent and that all other notifications are turned off during the meeting.

We have received apologies from Marie McNair. Ruth Maguire is attending as a substitute and I welcome her to the meeting. Before we turn to our formal agenda, I invite her to declare any relevant interests.

Ruth Maguire (Cunninghame South) (SNP): I have no relevant interests to declare.

The Convener: Thank you. The first item on our agenda is to decide whether to take items 3 and 4 in private. Do members agree to do so?

Members indicated agreement.

Subordinate Legislation

Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 [Draft]

09:00

The Convener: Under agenda item 2, the committee will take evidence from two panels of witnesses on the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023.

For our first panel, we are joined in the room by Professor Cliff Hague, who is a chartered town planner and chair of the Cockburn Association; Rob Dickson, who is the director of industry and destination development for VisitScotland; and Ailsa Raeburn, who is the chair of Community Land Scotland. Gillian McNaught, who is the legal manager for licensing and democratic services at Glasgow City Council, and Gary Somers, who is a solicitor for licensing at Highland Council, are joining us online.

I welcome our witnesses to the meeting. We will try to direct questions to specific witnesses where possible, but, if you would like to come in, please indicate that to the clerks. Could witnesses who are joining us online type R into the chat function if they wish to answer a question.

I will begin by framing the context for the meeting with what is set out in our briefing paper. The policy note that accompanies the licensing order explains that it would establish a scheme:

“to ensure short-term lets are safe and address issues faced by neighbours; and to facilitate local authorities in knowing and understanding what is happening in their area as well as to assist with handling complaints effectively.”

On 7 December 2022, the committee received a communication from Shona Robison, the Cabinet Secretary for Social Justice, Housing and Local Government, in which she said:

“I am writing to advise you that we intend to lay an affirmative Scottish Statutory Instrument in January 2023 that will seek to amend The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022. This is in order to amend the date by which existing hosts must apply for a short-term let licence from 31 March 2023 to 30 September 2023.

This is a one-off 6 month extension recognising the wider economic circumstances of the cost of living crisis that is placing pressure on existing short-term let hosts and businesses at a time when they are organising and budgeting for work to comply with the new licensing requirements.”

I refer to those in order to remind us of the purpose of the meeting. We might start to explore other areas, but I wanted to frame the discussion.

I have said that we will direct our questions to specific witnesses, but I will start with one that is for everyone to respond to. Does your organisation support or oppose the proposed six-month extension to the date by which existing hosts must have submitted an application for a short-term let licence? I would be interested to hear more detail on why you think that. Could you also set out what you think the implications of the delay might be from your perspective?

Rob Dickson (VisitScotland): Good morning. VisitScotland's position is complex. As a Government agency, we are charged with doing a range of things. Currently, our main focus is to bring together, through an industry advisory group, those organisations that have the most significant role in helping us to understand the situation in which we find ourselves. We are also trying to make sure that the industry, in all its various guises, from practitioners through to quite large commercial operators, is best able to manage the implications of the new legislation and that the impact of the legislation is managed in such a way that has minimal effect on the consumer.

We might discuss some of the details later, but a benefit of the delay is that it will allow further time for us to assist and work with local authorities in improving understanding of what is required. That will ease some of the pressures on the sector and help it to comply with the legislation, particularly if we address some of the anomalies relating to its introduction. The additional time is a potential benefit in that regard.

The delay will push back the timeframe in which the majority of applications are likely to come to local authorities. When legislation contains such a deadline, it is inevitable that applications will come in a wave near the deadline, whenever it is set. However, the delay will cause a particular complication for the sector that we are talking about, because the deadline will land at the end of the very busy summer period. With a 31 March or April cut-off point, businesses are asked to complete the work during the winter, a somewhat quieter period, but we are now asking for that work to take place over the summer, which is the busiest, peak period.

There are therefore pros and cons to the delay, but, during the delay period, we can probably address some of the concerns and, I hope, deal with some of the complexities and implications that are undoubtedly being felt by local authorities and the industry. I can expand on some of those points later.

The Convener: You raise a really good point about seasonality, with the end of summer being a busy season. Through the work that you are doing with the industry advisory group—we will go into that in more detail later—is there a way of

encouraging people to apply ahead of the deadline in order to minimise the delay?

Rob Dickson: Yes. Various sector organisations, VisitScotland and the Government have done marketing and communications work to encourage applicants to get on and do the work so that they can apply early. There has been an effort in that regard, and my understanding is that the Government will continue to ask businesses to do that.

However, we all know that, whatever the period or the timeframe, a deadline is a deadline and applications will come at the end of the process. We probably cannot avoid that.

The Convener: I agree. I know all about that kind of thing.

Does Gillian McNaught have anything to add from a Glasgow City Council perspective?

Gillian McNaught (Glasgow City Council): Thank you very much for inviting me to attend the meeting.

From a Glasgow City Council perspective, the proposed delay will allow existing hosts more time to make their application. As my learned friend Mr Dickson said, there is always a concern that applicants might wait until just before the deadline to apply. That concern existed when the deadline was set for the end of March, and it will still exist if the 30 September deadline is approved. I do not think that there is any way around that.

Glasgow City Council can encourage applicants to apply early, as we have been doing, but, realistically, they are concerned with ensuring that they are in a position to apply and trade and that their application is up to the required standard.

In relation to the potential administrative burden on licensing authorities, given that there is no proposed reduction in processing times, Glasgow City Council has no concern about that part of the proposal.

Ailsa Raeburn (Community Land Scotland): Thank you for the opportunity to speak to the committee.

For a number of reasons, we are opposed to any delay. The concern relating to the cost of living is misplaced, because those who are most affected by the cost of living crisis are not individuals who own several short-term lets but people who cannot get a house, and the number of properties that are being turned into short-term lets in urban and rural areas has a huge impact on that.

We must remember that people who own houses and want to let them out can still do so. They can still generate really significant income

from private rented tenancies, so it is not as if they are being left with no income at all.

I think that the delay will worsen the cost of living crisis for those who are most at risk. The impending legislation was already noticeably being felt because properties were coming back on to the market for rent, but that stopped overnight once the proposals for a delay were announced. That is impacting hugely on the credibility of the scheme, because people do not know whether it is ever going to be brought in, so that needs to be borne in mind.

We know that poor tourist accommodation will be unsafe and unlawful for longer. One of the main purposes of the legislation was to improve the safety standards, but all that we are doing is allowing another busy season to operate with accommodation that does not meet those standards. As I see it, there are no interim measures to ensure that properties are brought up to standard in the short term.

We were assured by the industry initially that all operators were already operating to safe standards, so legislation and licensing were not required, but we are now being told that, actually, they cannot bring those properties up to standard. There is an issue there. Were properties already at a safe standard and not needing licensing, or are they not at that standard, so we need a longer delay for licensing because operators cannot get the contractors to do the work to bring them up to standard?

I think that local authorities understand what is required, and they have each produced schemes that have local nuance. We agree that local authorities should be able to include local conditions, because they know their local areas.

A delay also gives more time to dangerous and unlawful operators. A significant number of operators have properties that will not get planning consent, particularly in Edinburgh, but they will continue to operate without licensing or planning permission.

The delay also further penalises people who have already applied for a licence. Lots of people who took cognisance of the legislation coming forward, who tried to get ahead of the game and brought their properties up to standard, will be penalised if there is a further delay.

The final issue for us is the 10-year planning rule, which means that planning permission is no longer required for properties that have been operating for 10 years in that particular use. I am sure that Professor Hague will know more about that, but the longer the licensing scheme is delayed, the longer it will be before local authorities can start to implement short-term let control area orders, and owners of properties that

have been in operation for eight, nine or 10 years will be able to claim lawful existing use rather than being required to apply for planning consent. The more we delay the implementation of the scheme, the greater the risk.

Local authorities have, quite rightly, said that they need to wait for the implementation of the licensing scheme in order to understand the numbers and the areas where issues of concentration apply, which are the areas where they might look at short-term let control area orders. There are a huge number of concerns if we further delay implementation of the licensing scheme, because the longer we delay it, the longer it will be before those control area orders can be brought into play.

The Convener: Thank you very much for that.

I will go to Gary Somers, who joins us online, to get his perspective from Highland Council.

Gary Somers (Highland Council): Good morning and thank you for asking me along to speak today. I echo some of the sentiments that have been shared by my learned colleague, Ms McNaught. As I understand it from our discussions with other local authorities, Highland Council has received the highest number of applications for a short-term let licence, and we currently have 809 applications.

With regard to the benefits of the proposed delay, in a number of rural and remote communities—particularly in the small isles community council area, which covers Rum, Eigg, Muck and Canna—people said that, based on existing timelines, they had struggled to get tradesmen and professionals to visit, particularly over winter months, so there had been difficulty in complying with certain mandatory conditions. I understand that those communities in particular will have welcomed the proposed delay.

09:15

On the impact that the delays have had on the Highland Council itself, we have employed various new members of staff in our legal and environmental health teams in order to meet the legislative requirements of the short-term let legislation and to cope with the anticipated volume of applications for our area. Based on existing data, we estimate that there could be up to 10,000 existing short-term let properties in the Highland Council area.

Our budgets for setting up and implementing the STL regime and the associated process and the costs for employing members of staff were calculated and justified on the basis of our anticipated income from the expected level of applications by the existing deadline.

In effect, in order to process the projected number of applications, we required 14 new members of staff for our legal team and 6.3 full-time equivalent new members of staff for our environmental health team across a number of posts. However, since we are now being advised that the majority of existing hosts will wait until much closer to the new deadline to submit their applications, we are concerned about the impact that that could have on our budgets, the income that we will receive and the position for those members of staff.

In particular, the appointments of some of the new members of staff were justified only if they were fixed-term appointments. Those fixed terms are due to expire in October 2023, when we had anticipated that the bulk of STL licence applications would have been received and processed. Due to the delay in the income that we will receive from application fees from existing hosts and due to the current funding position generally in local authorities, there are no guarantees that those posts can be extended.

In the event that we cannot extend the contracts, we risk being unable to have in place the necessary staff to process applications at what is now likely to be the peak time, which in turn risks delays and a significant impact on the systems and processes that we have already put in place. It also creates the risk of people being deemed to have got grants for a period of 12 months if applications are not processed within statutory timescales, which of course carries a reputational risk for the council and the wider scheme.

My final point for the moment is that immediately after the proposed delay was announced, we received quite a number of inquiries in relation to misinformation that appears to be out there, which said that there were potentially going to be further deadlines or other amendments to the STL licensing legislation. That could lead to a risk of a loss or a partial loss of confidence in the licensing regime more generally. Any further amendments also risk further misinformation more generally, together with a loss of confidence in and perhaps a risk of a lack of compliance with the short-term let licensing regime.

The Convener: Thanks very much for that, Gary. You talked about there being 809 applications so far, out of an expected up to 10,000 applications. Are you going to continue processing those 809 applications that are already in or are you putting a halt to that?

Gary Somers: We are absolutely continuing to process all the applications that are coming in. We have the systems and processes in place and we have the staff who are issuing licences, so we are absolutely still processing those and encouraging

as many applicants as possible to submit their applications well in advance of the deadline.

We are raising awareness by attending tourism conferences, including Highland Tourism conferences, and by hosting seminars with chambers of commerce throughout the Highlands and booking platforms such as Airbnb and GrowBiz. We are very much getting the message out there to applicants and prospective applicants that they should please submit their applications as soon as possible.

However, we have received feedback from applicants who have said, "We appreciate that, but there is no real benefit to us in submitting our applications now." Some applicants have said to us that there is no incentive for them to submit their application before the new deadline. They have pointed out that, if they submit their application now and their STL licence is issued, the renewal date for the licence will fall sooner than it would if they left it until closer to the deadline date to apply.

That marries up with the point about the availability of tradesmen and professionals. A lot of people who have already made their applications expressed concern, given that they had gone to great lengths and great expense to get tradesmen and professionals to visit their properties so that they could make an application based on the existing timelines. Especially in remote areas, some people said that that involved considerable expense.

There is concern and grievance on the part of some people who have already submitted an application. They think that it is unfair that their licence will be up for renewal sooner than it would have been if they had waited until the new proposed deadline. They have said that their counterparts who have not submitted an application will, in effect, get another season without having to have submitted a licence application. I echo the sentiments that were expressed earlier about the seasonal nature of this. People are taking the view that, if they do not submit their application now, they could get another season and their renewal will be due later than if they submitted it now.

The Convener: Thank you for going into a bit more detail. Next, we will hear from Cliff Hague.

Professor Cliff Hague (Cockburn Association): Thank you for inviting me to address the committee. I am chair of the Cockburn Association, which is the civic trust in Edinburgh. It was established in 1875. We exist to protect and enhance the beauty of Edinburgh, for everybody who loves the city.

We have an Edinburgh focus. We are opposed to the proposed delay, and our opposition reflects

a number of things. The question of why we need to regulate the industry has been settled. It is an industry that is a self-proclaimed disruptor; it has substantially disrupted communities in Edinburgh and the networks that they operate within.

The Parliament has already agreed that regulation is necessary, on reasonable grounds to do with safety, including fire and gas safety, which Ailsa Raeburn mentioned. Properties should be wind and watertight, there should be a maximum number of people who can stay in a property, and so on. Those are all entirely reasonable propositions for any regulatory body.

We know that we need to regulate short-term lets. Given that we have agreed to do that, the question is, if it is right to do it next year, why is it not right to do it now? Why delay?

I will try to fill in the gaps and address points that have not already been covered. We have already had a long process of consultation on the general issue. In March 2018—virtually five years ago—the Cockburn Association ran a half-day conference on short-term lets. We invited a broad spectrum of people, including people from the industry, to speak at it. At that stage, it was very clear that there was a serious issue to be addressed.

In 2019, there was a consultation. The Scottish Government reported in October 2019 and came forward with proposals in January 2020. There was a further consultation on those proposals in December 2020. That led to legislation in January 2022, which came into effect in April of that year.

We have had a long period of consultation, in which many community groups have engaged in good faith. It now appears to them that their arguments have been set aside in the face of more powerful lobbying by commercial interests. That itself creates a distrust of the consultation process. It should be recognised that, if we go down this road, everyone outside those lobbying will see the delay as some sort of caving in. That is really negative in terms of people's confidence in Parliament and in terms of accountability.

The implications of a delay are that it, in turn, will further delay action on taking properties out of the short-term let market and making them available for long-term residential occupation by local people and workers. There is an issue around the amount of properties that we lost in Edinburgh—it is literally in the thousands, in a city where there is already pressure on housing.

Another concern is that the delay is being described as a one-off, but the cost of living crisis is not going to be resolved by October. Therefore, I can see the same kind of arguments being used again to bring about a further delay or to unpick the basic legislation.

Finally, I am conscious that Festivals Edinburgh has given evidence—I have seen stuff in *The Scotsman* on that. I do not think that it is for this committee to decide how the festivals should organise themselves in relation to the changing external situation. However, what I would say—I am happy to expand on this later—is that you should look carefully at the kind of data that is being presented in that regard, because I question some of the impacts that are being predicted.

The Convener: I thank everyone for a good beginning to this conversation. My next question is for Rob Dickson. What evidence, if any, is there that the short-term let licensing regime is adversely affecting Scotland's tourism economy? Is it too early to tell?

Rob Dickson: It is probably too early to tell. I would like to make a wider observation about the introduction of regulation. We have heard a lot from the business sector—not just the tourism sector but more broadly—about the introduction of regulation and the complexity of doing that at a time when the cost of doing business is particularly challenging. That follows on quite logically from Professor Hague's point about the length of the consultation and the length of time that the Parliament spent considering the issue.

My understanding is that, in this specific instance, councils had the guidance from March last year and that, between March and 1 October, they had to produce and implement their policies. The reality—which I speak about based on my experience of working in local authorities for 20 years—is that that time period coincided with local government elections, when councils had to observe a pre-election period that meant that there were difficulties with public consultation and even with discussion with local businesses about what the policies might be. There was also an inevitable turnover in councillors, which presents difficulties for officers in doing the necessary work.

We can now see the impact of that in some of the inconsistencies in council policies. I want to make it clear that it is entirely right that each council decides on its own policy. However, what we have seen is some interpretation of the guidance that suggests that other policy areas have been used to define the short let, such as licensing policies around houses in multiple occupation and so on. Our view is that some points of detail emerge, perhaps because of a lack of clarity in the guidance or a misunderstanding on the part of councils, and that those issues could be addressed in the delay period in order to ensure that the ease with which the legislation can be used and the benefits that it can bring, which have been referred to, can be realised.

There is some complexity and detail in that answer, so I apologise, but I genuinely think that it

is presently too early to say what the overall impact will be. The Highland Council numbers have been quoted, and my understanding is that in Edinburgh, currently, 40 applications are in.

09:30

VisitScotland knows that 539 businesses—less than 10 per cent—are registered with our quality assurance scheme, and the number of businesses beyond that is routinely referred to as being in the “thousands”. Therefore, although I think that it is too early to say what the overall impact will be, it is beyond doubt that there are additional costs for businesses in relation to the scheme. That is reasonable, because the Parliament has decided that the area will be regulated. There is nothing unreasonable in that, but the scheme’s guidance and implementation need to be as smooth as possible, in order to make it easier for councils and licence applicants.

The Convener: Rob, I really appreciate complexity and detail. Those examples are really helpful because we need to get that understanding.

Since no one else wants to come in with their take on the impact on the tourist economy, we will move on.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning to everyone on the panel. Two of the issues that have cropped up during our consideration are the impact that the licensing scheme might have on the availability of homes to buy or rent, including long-term lets, and the question of whether antisocial behaviour will reduce or increase as a result of the scheme. Do you have any evidence at the moment of signs of movement in those areas? Professor Hague led on one of those aspects a moment ago, but I will start with Gillian McNaught and Gary Somers from the two councils. Do you have any evidence to support those claims?

Gillian McNaught: I do not have any evidence at present in relation to the two aspects of the availability of homes and antisocial behaviour. Given the infancy of the licensing regime, which will start on 1 October, I certainly have no evidence or data to feed back to the committee on that today.

Willie Coffey: Gary Somers, can you observe any movement or trends in the Highland Council area?

Gary Somers: It is too early to draw any firm conclusions, because we do not have enough data available at the moment.

Willie Coffey: Professor Hague, I turn to you. You mentioned the potential impact and expressed very well some of the concerns that

have been there since 2018 in relation to the series of events and processes that you were part of. It is it fair to ask what, from any conversations that you have had with colleagues, you anticipate the impact of the licensing scheme will be on those two issues?

Professor Hague: We do not collect systematic data. One difficulty with that industry is that it is very difficult to get regular data—particularly from Airbnb. You usually have to do some sort of data scrape in order to get figures. We chair the civic forum, which meets quarterly, and the issue of short-term lets comes up pretty regularly. People give anecdotal evidence—I cannot say that it is more than that—of the impact, particularly on tenement stairs. In a sense, all of that has been agreed. There is no doubt that the presence of party flats can be very disruptive on a stair. It is particularly upsetting to older people, who are concerned about the presence of strangers in the stair, as well as the constant turnover of people.

Similarly, in around 2019—although it stopped with Covid—we had some community meetings around the “Our Unique City” manifesto, which is a platform in relation to city plan 2030, looking at the future of Edinburgh. At every one of those meetings, the issue came up and the stories were interchangeable.

There is no doubt that one benefit of the legislation that is being implemented is that it will begin to normalise what has become a very abnormal situation across much of Edinburgh—not just in the city centre, because it has spread out into other areas of the city.

What was the first question again?

Willie Coffey: It was about whether you anticipate that there will be a change in those two areas. Will the licensing scheme have an impact on long-term lets and properties to buy or rent? That issue has been raised with the committee, and the unsocial behaviour issue has very much been at the heart of that debate. Do you think that there will be movement either way in both of those key areas?

Professor Hague: The legislation clearly intends there to be a long-term change. In a sense, that is one of the points of introducing it. It is not necessarily to abolish the industry. The point that has not been made is that, at the moment, people can get a temporary exemption during the period after April. The long-term pattern, though, particularly in relation to lets that are for a whole property that is tenanted 365 days a year, has to be to return those properties to being living spaces for people who live and work in the city.

Willie Coffey: Ailsa Raeburn, can you offer us any additional perspective on those two issues?

Ailsa Raeburn: Yes. There have been a lot of surveys. For example, there is the Highlands and Islands Enterprise survey, “My Life in the Highlands and Islands”, which was done in the past 12 months. In that, 75 per cent of respondents said that there were not enough houses that can be rented at a reasonable price in their area; the figure was 78 per cent in Argyll and 63 per cent overall. Too many houses are used as short-term lets and second homes.

According to a 56 Degree Insight report on a survey into the housing needs of businesses on Skye and Lochalsh in June last year, between 1,300 and 1,700 positions were difficult to fill because of a lack of accommodation, due to the huge change in housing moving over to short-term lets. A third of the dwellings in Plockton and district are now used as short-term lets and second homes. For any of you that know it, on the main street in Plockton, Harbour Street, 51 per cent of houses are now used as short-term lets and second homes. In Badenoch and Strathspey, 17 per cent of housing stock has been lost to that type of accommodation.

I will let Cliff Hague speak about Edinburgh, but the figures in rural areas are really stark because of the loss of housing stock to that type of use. It means that such areas cannot get nurses, teachers and care workers. Those communities are literally dying. Without young families wanting to move back, those communities cannot retain the key services required to make a community work. People cannot get homes because a huge proportion of the housing stock—in Tiree, for example, it is 46 per cent, and the figures are equally stark on Mull—has moved over to that type of use and been lost to full-time residential use.

Willie Coffey: Thank you. I have a question for Rob Dickson. You were talking a moment ago about whether the delay might give local authorities more time to clarify and consolidate their understanding of the legislation. How well do you think the licensing scheme proposals are understood by accommodation providers? Will the delay period help to make the proposals clear and well understood across the sector?

Rob Dickson: I think that the operators of the properties—the applicants for the licences—have varying degrees of knowledge. A range of organisations, including councils but particularly organisations relating to the tourism sector, have worked incredibly hard to explain the purpose of the licensing, the processes around the licensing and some of the intricacies between—in particular, planning and the licence application process.

That work has been highly beneficial, but there is still a considerable amount to be done to make sure that all of those who operate in the market understand what they need to understand, are in a

position to apply for a licence correctly and are granted a licence, if that is what the council decides to do.

That work is incomplete. I am sure that the extra months that the delay provides will allow the situation to improve, but I do not think that that in itself is a valid reason for the extension. I think that there are other reasons why the extension has been granted—or rather, why it is being considered, and may be granted by the Parliament. Some of the benefits that accrue from that have already been mentioned.

I would not underestimate how challenging the situation has been, in particular for operators with properties in different council areas who are operating under different policies and schemes. That difference is entirely appropriate—individual councils can make those decisions. As I said earlier, however, there are some points of detail around matters pertaining to floor plans and habitable standards, for example, which are being drawn from a range of different pieces of legislation. Those are complicated and I do not profess to understand all the detail, but we have seen a plethora of examples from operators and applicants as to where some of that complexity sits.

Further explanation, guidance and education will be helpful. At VisitScotland, we will continue to play our part in providing that and in trying to improve understanding in the sector.

Willie Coffey: The issue of floor plans is coming up later, so I will wait for my colleague to follow up on that. I thank all the witnesses.

The Convener: We want more detail on that point.

Rob Dickson: I consider myself forewarned, in that case.

The Convener: I have a quick supplementary question on understanding among accommodation providers. MSPs are probably getting emails from people on the subject. Should we direct them to VisitScotland for assistance and support or to somewhere within the local authority?

Rob Dickson: It is either/or—it rather depends on what the question is, to be honest. If it is specifically about a council's policy, the council will be the best organisation to provide a detailed answer. If it is a more generic question about the overall scheme and the details and processes, the business pages on our website—visitscotland.org—are able to provide a good level of information and support. The Government site also has good information. A range of online help and support is available, with some specialist support behind that.

The Convener: I have another supplementary question. Ailsa Raeburn talked about the challenges for communities that are, in a way, being hollowed out—those are my words, not hers—by the fact that teachers, nurses and those working in public sector services cannot find housing in them. However, as a Highlands and Islands MSP, I am also aware that there is a challenge around accommodation for people who work in the hospitality sector. Do you recognise that that is an issue? It is ironic. On the one hand, there is the short-term letting industry, but on the other hand, there are other hospitality services that the people who come to stay in short-term lets might want to avail themselves of, but they cannot get a meal in a hotel because the hotel cannot accommodate its staff.

Rob Dickson: I absolutely recognise that issue and the critical nature of it. The issue of housing in many parts of Scotland, and in the more rural areas in the north and the south in particular, is now perhaps the most critical factor in our economy.

As a VisitScotland director, I attend the convention of the south of Scotland and the convention of the Highlands and Islands, which are both chaired by the Deputy First Minister. In providing evidence to the Finance and Public Administration Committee on the budget a matter of weeks ago, the Deputy First Minister summarised what he had heard at the convention of the Highlands and Islands pertaining to housing. I would not demur from a word of what he said or what was said at the convention meeting.

Housing is a significant issue that requires considerable thought. I know that, at the next meeting of the convention of the Highlands and Islands, a lot of time will be dedicated to discussing it. I absolutely recognise the issues. They are experienced in different ways by different sectors. I probably do not need to expand on that here, but I absolutely recognise what is being said.

The Convener: Thank you. I appreciate that. I now bring in Paul McLennan.

Paul McLennan (East Lothian) (SNP): My question is on an issue that we have touched on already. Is the licensing regime acting as a barrier to new entrants to the short-term letting market? If that is a problem, how could it be tackled? I will go to Ailsa Raeburn first and then to Cliff Hague. You have touched on the issue. I do not know whether you have anything else to add.

Ailsa Raeburn: Is the question whether the licensing regime is a barrier to new entrants?

Paul McLennan: Yes. I suppose that there is a balance. We have talked about short-term licensing and short-term control areas, which are different but related. My question is about the

nuances in that regard and the differences between the control areas and the licensing regime.

09:45

Ailsa Raeburn: With the exception of the City of Edinburgh Council, most local authorities are waiting until the licensing scheme is implemented until they think about planning.

From a communities perspective, we were keen for the overprovision policy to be included in the legislation, but it was removed. That would have given communities control or at least a say. They would have been able to say that, in their community of Plockton, Tiree, Mull, Tayvallich or wherever, short-term lets should be a maximum of 20 per cent of the housing stock, which would enable the community to stay vibrant and viable because it would have housing.

If only a limited number of potential licenses are available, that could stop new entrants until a licence became available. I am not convinced that that is a particular issue. The issue is more about how we make more affordable housing stock available, not more self-catering lets. The market is fairly saturated. We see that from some of the industry, which tells us that the numbers are really down and that it does not have the bookings. That might be an argument that the market is saturated and that many of the properties are sitting empty when they should be in full-time residential use to support the sustainability of communities.

I know people who have made the application for a licence for short-term lets. It is a straightforward process. The form is really straightforward and clear. Licensing brings the market up to parity with private residential tenancies in respect of safety requirements because, previously, to operate a short-term let, you were required to do very little on safety and security for your customers.

The number of licences is not a particular issue. People can apply and are applying. There are new applications, so I do not think that there is a barrier. The issue is much broader.

Paul McLennan: Cliff Hague, given your context in Edinburgh, what are your thoughts on that question? We have the short-term let control area there and we are considering licensing. I have had some feedback about how complex the application process has been in Edinburgh. What is your experience of that?

The key point is to come back to the evidence base. You mentioned previous discussions on the City of Edinburgh Council's position. Has its current approach to licensing and the control area

been based on evidence that it has taken over a number of years?

Professor Hague: A virtue of the legislation that was passed is that it devolved powers down to local government. That allows councils to define what is appropriate for their areas.

One of the features of Scotland, as of most countries, is that there are differential market pressures across different regions. Therefore, a one-size-fits-all approach would not be totally appropriate. If a local authority wants to go for short-term lets as a way to develop its local economy, I do not see the legislation preventing it from doing that. It does not need to declare a control area or anything like that. It can have a relaxed process.

More widely—and to pick up on an earlier question—the availability of accommodation for key workers who are relatively low paid is certainly an issue in Edinburgh as well. That also has environmental implications: the more we push people further out of the city to find affordable accommodation, the more that creates congestion coming into the city and the more it undermines the city's net zero aspirations. The matter runs out in a number of directions.

It is also important to recognise that the health and education industries, along with financial services, are the key employers in Edinburgh. I am not putting down the tourism industry; it is significant, but we can overestimate it at times. The real bedrock of the Edinburgh economy is the services that I mentioned, many of which have quite low-income people working in them. Therefore, to sustain the quality of life for citizens and the quality of those services, as well as the hierarchy of expertise that there is in those areas—from janitors to research scientists, and from people pushing trolleys to surgeons—we need a supply of housing.

That links into the Government's aspirations on community wealth building. One difficulty with the existing model is that, although we know that, historically, a short-term let was somebody sleeping on your couch, we also know that a lot of investors might own properties in several authority areas, as Rob Dickson has said. That is not community wealth building; it is community wealth extraction. That is because that money does not circulate in the local economy; instead, it goes into the bank account of the property owner.

A range of factors exists. When we begin to really analyse the economic impact, it becomes more complex than simply pulling figures out of the air and saying, "Oh, this is going to be a hit to the economy." We really should look to build much more sustainable, long-term economies, and I do not see that the existing model of relatively

unregulated short-term lets contributes to that. Delaying the introduction of licensing sends out the wrong message to people.

Paul McLennan: Would Gillian McNaught or Gary Somers like to add to that from a council point of view? Do you have any thoughts on that? Have you seen many applications? That is maybe slightly outwith your bailiwick, but you might have picked things up from other council colleagues.

Gary Somers: It is still very early days to determine whether the licensing regime is a barrier to new entrants to the short-term let market and to see its wider implications. Practically speaking, we have had a lot of inquiries, especially over the past couple of weeks, from prospective new hosts who have not yet completed their purchase of a short-term let property. They might be in the process of purchasing one. We have had a number of inquiries and discussions with prospective purchasers, sellers, lenders, relationship managers for high street lenders and brokers, who have raised grievances because, although the purchaser of a property can still technically apply if they have control over the use of the property that they are purchasing, those people have said that they were having difficulty complying with all the mandatory conditions until they were the owner of the property. In particular, prospective new hosts who are funding their purchase with loan funds from a lender have reported that the lenders will not release loan funds until an STL licence is in place. Therefore, the prospective hosts cannot conclude an unconditional contract for purchase until they can guarantee that they have loan funds in place, which has a knock-on effect on when they are able to exercise control over the property. It is a chicken-and-egg scenario.

Local authorities cannot give provisional licence numbers to new hosts. Under the STL legislation, STL licences are not transferable.

We have received a number of inquiries because we are moving towards the spring season. Again, this evidence is mostly anecdotal. We know that properties are typically bought and sold in the winter so that they can start to operate going into the spring season. We have seen quite a bit of frustration from prospective new hosts, who have said that they cannot complete the purchase of the property, and, conversely, from sellers of properties, who have said that they cannot sell their STL property because the buyer or the buyer's lender has raised issues with that.

That is more a practical point about the impact in the immediate future than a longer-term policy point, such as those that others have raised. From a practical point of view, that is a point of frustration that is regularly raised with us.

Paul McLennan: I have received similar feedback. Does Gillian McNaught want to add anything else to that?

Gillian McNaught: Glasgow licensing services do not have any evidence to say that the short-term let licensing regime is a barrier to the availability of short-term lets or to their coming into the system. It is too early to say. I think that you stated that the assessment of that perhaps does not sit with licensing. However, we have no evidence on that to date.

Paul McLennan: I think that my next question can be picked up later, convener, as we are tight for time.

Miles Briggs (Lothian) (Con): Good morning to the panel, and thank you for joining us today.

I will start with a question on temporary exemptions. Rob Dickson, do you think that the system that governs temporary exemptions from the licensing regime for major events is working as expected? I believe that the City of Edinburgh Council wanted to create such a scheme for the festival. Where are we today with the legislation? How do you think it is working?

Rob Dickson: As others have commented, it is probably too early to say. One difficulty that we have is that there are very limited numbers of applicants, so very limited numbers of licences are granted and very limited numbers of processes are completed.

The intention to have short-term exemptions, particularly pertaining to events, is sound. The Edinburgh festivals have inevitably been highlighted because of their profile and the significant numbers of visitors, but there are plenty of other events throughout Scotland that do not occur every year but occur reasonably frequently, such as the open golf championships. There are other examples. The notion is sound, but it is too early to say how the process will actually operate and whether it will facilitate the volumes of accommodation to be released that would traditionally have been released and that festival and major event organisers would want to be released.

Miles Briggs: On large-scale events—I refer to the recent bidding process around where the Eurovision song contest would happen, for example—is the system impacting on Scotland's potential to host large-scale one-off events and have accommodation available for them?

Rob Dickson: I do not think that it is impacting on that potential yet. We need to wait and see how the process flows and operates to see whether the people who would be interested in allowing their property to be used as temporary short-term accommodation will follow the process and get the

exemption that they need, and whether the process is straightforward enough for a single short-term let. Different people do it in different ways. Some people might do it a couple of times a year. Somebody in Edinburgh might do it just for the festival, and somebody might do it for the open golf at a particular venue only once every six, seven or eight years. That makes it difficult to judge whether the process that we have works.

Miles Briggs: The committee has heard that the licensing scheme is being applied inconsistently across Scotland. I know that Highland Council and Glasgow City Council request proof of planning permission or a certificate of lawfulness as part of the licensing requirement rather than deferring to planning departments on a case-by-case basis. I understand that my local authority requires evidence of planning permission for planning control areas. Will Gary Somers and Gillian McNaught comment on the consistency of applying the legislation?

Gillian McNaught: On the planning permission in Glasgow, yes, that is a requirement of the licence application. That has been the planning position in Glasgow for several years. On the question about licensing, we make sure that the planning side of it, which has been in place for many years, is being complied with before an application is submitted. That is nothing new in relation to what is expected and required for people who operate short-term lets in Glasgow.

Miles Briggs: Does Gary Somers want to add anything, or do you have the same rationale?

Gary Somers: When we process applications, there is no requirement for an applicant to provide us with evidence of planning permission as part of their initial short-term let licence application. We advise that whether planning permission is required for a specific property is a separate legislative matter. We would ask the applicant or the individual who is making the inquiry to pick that up with our planning department separately. I do not know whether that is misinformation. We do not ask for proof of planning permission as part of the short-term let licence application, but an applicant might require it under that separate legislative regime.

10:00

Miles Briggs: Thanks for that clarification. I want to move on to floor plans. I have become our committee's floor-plan man on this piece of work. One of the key concerns that has been expressed to us is that some local authorities require applications to be supported by detailed floor plans. With regard to simplicity, the legislation has perhaps been misinterpreted. What is your

understanding? For example, is a simple hand-drawn plan of a property, rather than a full architect's drawing, acceptable? I will bring Gary Somers and Gillian McNaught back in on that.

Gillian McNaught: In Glasgow, there is a requirement to submit a floor plan with an application. It needs to be at a scale of 1:50 and show specific things—the rooms, room sizes, fire escapes and suchlike. That the floor plan needs to be an architect's drawing has not been agreed by committee—it could be hand drawn. Some concern has been raised that a floor plan requires an architect's drawing, but that is not the case. The scale of 1:50 is required, but it could be hand drawn. A requirement to provide an architect's drawing would involve additional costs for applicants, but there is no such requirement in Glasgow. A floor plan is required, but it can be hand drawn, provided that it shows the room sizes, fire escapes and the location of heat and smoke alarms, to enable the statutory consultees to respond to the application satisfactorily.

Miles Briggs: That is helpful, thank you.

Gary Somers, do you have anything to add? We have been asking individual councils for their view, to find out why some applicants are told that they need an architect's drawing.

Gary Somers: Our advice is that, although every effort should be made to submit professional plans, if the applicant is unable to do that, hand-drawn plans will be acceptable, provided that they are reasonably to scale and adequately dimensioned. Again, just as Gillian McNaught said, we ask that those are at a scale of 1:50, ideally. We require certain information. We have taken a steer on that from our statutory consultees, and that information includes fire escape routes and the location of smoke and heat detectors.

We adopt a very pragmatic and commonsense approach in Highland Council. We have our STL licensing inbox, and we have asked a number of applicants to send in their proposed floor plan, which we can check in advance of their making an application to give them some comfort and to let them know whether it is likely to be accepted or refused when it comes to marking the application as valid. We try to take a commonsense and pragmatic approach, bearing in mind the feedback that we have received from our statutory consultees on what they require to see in the floor plans.

Miles Briggs: That is helpful. Thank you.

I turn to the impacts of other legislation. Parliament has just approved national planning framework 4. On short-term lets, policy 30(e) of NPF4 states that

“The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits”

should not be permitted. What is your interpretation of NPF4 in terms of whether there is any overlap with short-term lets legislation?

Gillian McNaught: I am wary of answering in relation to planning matters, given that I am licensing based. I can speak to planning colleagues about that specific point, but given my licensing remit, I cannot give an in-depth answer.

Miles Briggs: That is no problem. Gary, do you want to add anything?

Gary Somers: I am in the same position as Gillian McNaught, in that I would have to ask my planning colleagues for information on that point. I would just comment that NPF4 and the short-term lets legislation are separate legislative frameworks.

The Convener: I would like to dig a little deeper into the scale drawings. Rob Dickson, perhaps you can help us with that, as you are part of the industry advisory group, so I have a sense that you have a bit of an overview.

Do all local authorities require a scale drawing as part of an application?

Rob Dickson: I do not know.

The Convener: Does anyone know?

Ailsa Raeburn: I think that it is fairly standard, but I do not know whether all of them do. When I have discussed the process with people who have made applications, I have found that hand-drawn drawings seem to be acceptable, as Gary Somers said, and that the cost of getting an architectural drawing can be expensive. Of course, some people will have floor plans from the particulars that they received when they bought the house.

It does not seem to be an unusually onerous requirement for what is a business. We have perhaps steered away from this point during our discussion today, but the fact is the people who own these properties—whether they have one or 100—are running them as businesses, and we are talking about something that is a standard business requirement. Without knowing too much about it, I suspect that, if there were no requirement for scale drawings or plans, that would mean that visits would be required, which would put up the cost. Therefore, I think that the approach that councils are taking is pragmatic and responsible. They are saying that they do not need to go out to see everybody but that the owners have to provide them with the same level of information that any other customer-facing business that provides accommodation would have to supply. The local distinctiveness between councils is quite right, because I suspect that what

Highland Council might require will be different from what the City of Edinburgh Council might require. That distinctiveness is a nuance, not a problematic issue.

The Convener: I will take my question a little further, because I am trying to understand whether the requirement for a scale drawing is creating confusion. It is being interpreted as a requirement for an architectural drawing, whereas, in fact, people could just take a piece of grid paper and use one box on it as their scale. As Gary Somers said, a scale of 1:50 would be nice, but the drawing does not need to be exact. Certainly, in the case of Highland Council, it does not sound like the drawing has to be down to the nearest millimetre, and that what is actually required is something that gives a general sense of the placement of things.

Rob Dickson: I will make a wider point and then come back to the detail. The legislation has resulted in guidance being provided by the Government to councils, and that guidance forms the basis on which the councils develop their policies and the practical application process. It is also what applicants look at to see how to apply for a licence.

As I indicated, the guidance was developed and councils then developed their policies over a relatively short time period when, due to Covid and so on, some of the more detailed discussions that would traditionally have taken place probably did not take place. As a result, we do not have quite the level of specificity in relation to the legislation that I would expect to see in the fullness of time, and which I would have expected to see if trade associations, businesses, councils, Government and perhaps the Convention of Scottish Local Authorities had developed the guidance together. That means that, understandably and with the best of intentions, councils have drawn on their existing experience of licensing regimes. In particular, they have used HMO processes and their experience of registered social landlord arrangements to arrive at the policies and explanatory notes that can be seen on their websites. However, this is a regime for short-term lets, not houses in multiple occupation, and there are, therefore, differences.

Gary Somers and Gillian McNaught explained clearly that the purpose of the drawing is to allow the statutory consultees—particularly the Scottish Fire and Rescue Service—to see where the necessary fire equipment is. We just need to refine the guidance, the explanatory notes and the processes in order to ensure that it all operates a little bit more effectively, with a little bit more ease and a little less cost for everyone concerned—including the councils—in order to provide a licensing regime that, ultimately, takes a

proportionate risk-based approach, which is what the Government has said is its intention.

The sense from businesses is that they feel that some of the cost burden is not proportionate and is not as risk based as it could be. I am trying hard not to attribute fault to anyone—I do not think that it should be attributed to anyone. We have had to complete a set of processes within a compact time period; however, improvements could be made on all sides for the benefit of everyone.

The Convener: We have known that the scheme has been coming for quite some time, as Cliff Hague laid out.

Ailsa Raeburn: A lot of our discussion today has been on issues that seem to me to be suitable for discussion during the review that is to happen after 12 or 18 months. That will be the point at which many of the issues—what is or is not working—will be considered. The longer that we delay the scheme's implementation, the longer that it will be before we get to the review. Many of these issues will be much better dealt with then, rather than our trying to work out the finer details now. We know that there is a lot of misinformation: rather than working out the finer details now, let us get to the review and see how well the scheme is working or not.

Professor Hague: I support that point. We know that floor plans are required as part of the legislation. The question is whether those floor plans should be required in our licensing system by 1 April or 1 October. There will be ample opportunity to adapt once we know how the system is working. The basic requirement is there; the question is whether it makes sense to implement the requirement for floor plans from April or October.

I will pick up on a point that was raised by Miles Briggs about NPF4 and the economic benefit. Some of the difficulty is evident from what Festivals Edinburgh said, such as that 700 jobs will be lost, which is the economic cost of the scheme. How many of those jobs are full time, how many are temporary and how many pay above the national minimum wage? Does anyone know what 700 jobs equates to as a percentage of the total number of jobs in Edinburgh? It is 0.002 per cent. You can say, "Wow—700 jobs are going to go." However, if you say that 0.002 per cent of the jobs in Edinburgh are going to go so that we can reclaim some housing, that is a different picture.

Similarly, I think that we need to be careful about the point that there is a gap between how affordable short-term lets and hotels are. Last summer, one complaint was that the fringe had become unaffordable. Accommodation is one part of people's costs, but there are also the costs of

room hire, publicity, travel, subsistence and other things. We must not overstate the significance of accommodation costs. I checked yesterday and I could book a room for one adult at the Holiday Inn Express in Edinburgh for six nights in mid-August for £1,419. Alternatively, I could book a one-bedroom flat on Airbnb in central Edinburgh for the same six nights for £1,345, which is a difference of around £70, or £10 a day. We cannot assume that if we reduce the supply of Airbnb properties, that will destroy affordability. Similarly, the Edinburgh Fringe argued that about 25,000 bed nights during August are provided by short-term lets. However, in 2019—the last year for which we received data before Covid-19—hotels achieved 90 per cent occupancy. There was still 10 per cent occupancy available, or about 50,000 bed nights. I know that my point is a bit hypothetical, but you could fill the hotels to full capacity.

I am saying that the economic case is not as watertight as it might appear, whether you look at the scale of the economy, the temporary nature of the events or the alternatives. The challenge is to find different ways to run major events that create a peak in demand for accommodation and to look at ways of spreading that peak throughout the year. That would sustain many more businesses in our city in comparison with having pop-up stalls in Princes Street gardens for four weeks.

10:15

Ruth Maguire: Good morning, panellists. I appreciate what Ailsa Raeburn and Cliff Hague have said, particularly on the sustainability of jobs and homes. I wish to drill down a bit further on what Rob Dickson has said about the guidance. My understanding is that the committee has received written evidence saying that some local authorities are applying conditions to short-term licences outwith the scope of the legislation. I would be interested to hear Rob Dickson's further reflections on that. Do you understand that to be correct? What are the implications of that?

After that, I would like to hear from the officers representing Highland Council and Glasgow City Council. Specifically, have those councils applied any additional conditions? If so, what are they, and what do they set out to address?

Rob Dickson: I will make three points in relation to that. First, I re-emphasise the importance of the policies made by each council being appropriate for each council. Clearly, the policies that would be adopted in Edinburgh would not be appropriate in the Scottish Borders, for instance. The strength in the legislation is that it is for individual councils to adopt their individual policies. They are best placed to understand the nuances of what is required in an individual area.

Secondly, however, there are certainly assertions from operators and some of the trade bodies in the sector that the scope of the policies has been drawn too widely or that the policies extend beyond the remit of the short-term lets regulations. I am not a lawyer, and I am probably ill-equipped to say whether that is the case, but we can see that there is a set of issues seeking to be addressed that councils believe are relevant in the context of short-term lets. Whether they fall within the remit of the legislation is a question that I would leave for lawyers and, ultimately, the courts to decide, but the importance of getting the local policy framed correctly so that it is appropriate in local circumstances cannot be overstated.

My final point relates to my earlier comments on the guidance and the explanation of how people follow the application process. That is also important: the process needs to be made as straightforward and easy as possible. As Ailsa Raeburn has said, there are examples of where that has happened, but there are also examples where applicants have found the processes quite difficult as regards what has to be done.

Ruth Maguire: That is helpful.

Gillian McNaught: Glasgow City Council has additional conditions, which relate to noise, nuisance and littering. They were drafted in line with the Scottish Government's guidance to licensing authorities.

The consultation that was undertaken on the short-term lets policy detailed additional conditions, and two conditions—on key safes and on restricting the hours of comings and goings due to guests arriving and so on—were subsequently removed on the back of the consultation. On the other additional conditions, which relate to noise, nuisance and littering, although I would not say that everybody who responded to the consultation was happy with them, the majority of people did not have too big concerns about them. I suspect that that is because they were in line with the Scottish Government guidance to licensing authorities.

Ruth Maguire: Perhaps Gary Somers will comment on any additional conditions for Highland Council.

Gary Somers: I echo some of what Gillian McNaught has said. In line with the Scottish Government guidance to licensing authorities, and following discussions with stakeholders and the Highland licensing committee, we included additional conditions to reflect the practical realities for short-term let properties and the wider policy objectives of the licensing scheme. Our additional conditions are not intended to be onerous for licence holders, and we have not

received any specific complaints or concerns about them.

We have not included prescriptive steps in our additional conditions. For example, there are no prescriptive steps regarding equipment safety or the installation of carpets in place of hard flooring—we understand that there is a question whether that must be a prescriptive step. Instead, we have included conditions that state that the licence holder has to take “reasonable steps” in relation to privacy and security, littering and waste disposal, and the use and maintenance of hot tubs.

We also have some additional discretionary conditions. They can be applied on the back of noise complaints and so on, but they are not applied as standard—they are applied only when required.

As I said earlier in relation to floor plans, we take a pragmatic approach. I think that our additional licensing conditions represent common sense and are what a lot of people would use anyway. We have other additional conditions that you would expect us to have. For example, the licence holder should tell us if there is a material change of circumstances and should report incidents involving structural damage, collapse, gas leaks, fire, explosions and so on. We take a very pragmatic approach.

Ruth Maguire: We have heard about the impact that short-term lets can have occasionally—one of the witnesses described them as “party flats”. You said that the condition relating to noise is not automatically applied. What would trigger a condition relating to noise? I am thinking about neighbours who have such a property next to them.

Gary Somers: We have additional conditions regarding noise and antisocial behaviour that apply regardless. Our policy states:

“The licence holder shall take reasonable steps to ... ensure that no disturbance or nuisance arises within or from the property, for example by explaining the house rules to the guests ... deal effectively with any disturbance or nuisance arising within or from the property, as soon as reasonably practicable after the licence holder is made aware of it, and ... ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces ... are to be found and highlighting any local rules.”

That additional condition applies as standard.

If, following investigation by Highland Council’s environmental health team, the use of additional conditions is deemed to be appropriate and proportionate by enforcement officers, who follow enforcement policy for environmental health, additional conditions regarding noise could come into play. For example, it might be that the licence holder must take

“steps to ensure that noise monitoring equipment ... is maintained in full working order”,

it might be that there cannot be noise of certain decibels between 7 am and 11 pm or noise of certain decibels between 11 pm and 7 am, or it might be that the

“licence holder must take reasonable steps to ensure that guests do not use the hot tub after 10pm.”

That would be applied

“following investigation of concerns regarding noise associated with hot tubs and where a hot tub is positioned in close proximity or overlooked by neighbouring property.”

Those are the kind of examples that we are talking about. Full details are on our website, and I am happy to provide a list of those examples. As I said, we have general additional conditions relating to noise and antisocial behaviour that apply to every licence. However, following case-by-case investigations by the council’s environmental health team, additional conditions regarding noise could be applied.

Ruth Maguire: That is helpful.

The Convener: Our final couple of questions are from Mark Griffin, who joins us online.

Mark Griffin (Central Scotland) (Lab): The committee has received written evidence that includes concerns that the licence application process can be unduly complex. Some people have talked about poorly designed online application processes, although I know that Ailsa Raeburn said that she is aware of people who have found the process fairly simple to complete.

Gary Somers, how do you respond to concerns that the application process is unduly complex? How do you view the process in comparison with other application processes relating to other licensing functions?

Gary Somers: Highland Council spent significant time and resources on putting in place the staff, training and processes that were necessary to deal with the anticipated numbers of applications and inquiries from prospective applicants. We developed an online process that allows applicants to answer certain questions and then asks only those follow-up questions that are relevant to their application. The questions branch out so that we ask only relevant ones. If an applicant does not have online access, we offer digital assistance. People can attend one of our council service centres, where our admin or licensing officers can assist them.

So far, most of the feedback about our online application form has been positive, and it seems to be working well and efficiently for our staff who are processing the applications. We have used this as an opportunity to get our online system up and

running, and we use that system to process the applications.

We have had 809 applications. The way that we have processed them has allowed us to get up and running. We anticipate a flood of applications in the next short while. We have processes in place and are ready for those applications. I am really pleased with how our processes are running, and we have received mostly positive feedback.

Mark Griffin: Gillian McNaught, do you have any comments from the Glasgow perspective regarding any concerns about the application process?

Gillian McNaught: The licensing process for short-term lets in Glasgow is similar to that in Highland. We have an online application form. Depending on what someone's answers are at first, other questions are triggered to appear.

We get feedback about a variety of licence applications in Glasgow. People are very open and honest if they find an application form difficult. We try to take that feedback and will adapt forms, within reason, where we can. No concerns have been raised so far about the online application form for short-term lets. People can save the application form as they go along; they do not have to complete it in one go. So far, Glasgow has had a positive experience with the application process.

Mark Griffin: My second question is about the concerns that we have heard from local authorities and public sector partners—such as the Scottish Fire and Rescue Service—that are involved in the application process. They do not have the necessary resources to process applications quickly. Gary Somers touched on the issue of profiling and the fact that spending on staff might now be out of sync with the possible six-month delay to the deadline for getting a licence.

My question is for Gillian McNaught and then Gary Somers. How are your authorities covering their costs at the moment? Should the Government look at that if it plans to implement a six-month delay that will have a knock-on impact on the income that you would expect to receive to cover those costs?

Gillian McNaught: When Glasgow City Council looked at the proposed fees, which were put out for public consultation, those fees were determined in line with the business and regulatory impact assessment from the Scottish Government and in line with Scottish Government guidance. The fees were set on a cost recovery basis so, from Glasgow City Council's perspective, I do not foresee there being any difficulty with fees in relation to any proposed extension. In relation to processing, although we paid money for an online

application system, the staff resources are currently absorbed within the licensing section. We have not taken on additional staff for the processing of short-term lets.

10:30

Gary Somers: As we said in our written submission and as I detailed earlier, we have taken on quite a number of staff, in our legal team and in our environmental health team, to process STL licensing applications. Those appointments were made on the basis of the existing deadlines in the short-term lets legislation. We have put quite a bit of time and resources into having our processes ready and up and running on the basis of the existing timelines. I mentioned the fixed-term nature of some of the appointments and the implication that the extension will have in that regard.

The proposed delay has already led staff who are on fixed-term contracts to raise concerns regarding the impact on their immediate employment. Although we have sought to reassure them of their current position, on the basis of the number of applications that we have received to date and which we continue to receive, we completely appreciate why employees are raising such concerns. Given the material reduction in projected income, we share their concerns.

The proposed extension has significant resource implications for the Highland Council. As we said in our written submission, we request that the Local Government, Housing and Planning Committee provide funding to cover the financial burden that we will incur as a direct impact of the proposed delay. That will enable us to address the resource implications and to fund an extension of the fixed-term appointments so that we have the members of staff in place to process and deal with the bulk of applications when we need them the most.

Mark Griffin: Thank you. I hand back to the convener.

The Convener: Thank you, Gary. Although the committee does not have a budget that we can provide funding from, we totally take on board the significant resource implications, and the fact that you did a good job to set up a new system in the timescale that was outlined. It sounds as though tremendous work was done in that respect in Highland, and we take note of that.

We have come to the end of our questioning. I apologise for running a bit over time. I thank the witnesses for their evidence.

I suspend the meeting to allow for a changeover of witnesses.

10:33

Meeting suspended.

10:37

On resuming—

The Convener: I welcome our second panel. We are joined in person by Julia Amour, who is the director of Festivals Edinburgh, and we are joined online by Fiona Campbell, who is the chief executive of the Association of Scotland's Self-Caterers.

I will open the questioning. The regulations under consideration provide for a six-month delay in the date by which existing hosts must have submitted an application for a short-term let licence. What is your view on that delay and its potential implications? I ask Julia Amour to answer first.

Julia Amour (Festivals Edinburgh Limited): Thank you for inviting us to give evidence this morning. I represent Festivals Edinburgh, which is made up of the 11 major international festival organisations—which are, in the main, charities—that underpin the organisation of festivals in Edinburgh. As members of the committee will know, there is also a hinterland of individual festival organisers behind that. The committee has received evidence from some of the major venues in the city, which are part of the landscape of the fringe and the other festivals that happen in peak season and beyond.

My evidence is based on the views of the directors of Festivals Edinburgh Ltd. In that respect, we have been talking about short-term lets and supporting the existence of regulation for short-term lets in the city since 2018, in cognisance of the fact that there are some areas of high concentration and some neighbourhood amenity issues that need to be addressed. As the committee has heard, it has been a very long process. It has also been a complex and disrupted process. It has been disrupted not only by last year's local authority elections, which Rob Dickson of VisitScotland mentioned, but by Covid and all the contingencies associated with that.

The festivals have not emerged from that unscathed. In 2022, the festivals were 75 per cent of the scale that they were in 2019. That is an example of the cost of living pressures and the post-Covid pressures that we face, which means that we welcome the proposed delay in the implementation of the licensing legislation. That will give time for the clarity that has been talked about to emerge—clarity for people using the legislation and clarity across local authorities on the interpretation and implementation of the legislation.

If a blanket approach is taken, it would really damage jobs and livelihoods without achieving some of the policy's key aims. We do not want the licensing scheme to be gone, but we want it to be put beyond doubt that brief stays in residents' personal private homes for major festivals and events should be out of scope. That could be done with a national exclusion, as is done elsewhere in the legislation for home-stay students who have an arrangement with an educational institution. That is the key point about the interpretation of the legislation that we want to make. Surely it is relatively uncontroversial to say that personal primary letting is different from secondary letting and that there should be a balanced approach to those two parts. That is not all of the story, which you have heard from the fringe venues and you will hear from the Association of Scotland's Self-Caterers, I am sure. That is surely a point on which relatively clear agreement and clarity could be established to improve the implementation of those legislation requirements.

Secondly, we think that extra time is needed for all local authorities to have the proper evidence and impact assessment to model both the positive and negative effects of regulation for all types of short-term lets. The implementation of the policies will have very wide-ranging consequences, which will differ across the country. It is therefore quite right that local authorities have the ability to act in different ways.

We are happy to expand on those and other points, but the two key points that we are making today are that primary personal letting is different and it needs to be clarified that provisions on short stays in people's own homes can be lightened up, and that it is important that impact assessment and evidence are in place before wide-ranging decisions are taken about all sorts of aspects of the short-term letting system.

Fiona Campbell (Association of Scotland's Self-Caterers): Good morning, and thanks for offering us the opportunity to join you this morning. We absolutely welcome this additional scrutiny, because it is very much required.

My apologies that I am not with you; I am actually on holiday and I am in a hotel, so I apologise in advance if there is any untoward noise. I have tried to get away from the noise as much as possible.

I will make a general observation. I am slightly disappointed that the conversation this morning has conflated the issue of housing pressures and the issue of licensing, which is about the safety of an activity. I was under the impression that it was about the licensing under the Civic Government (Scotland) Act 1982 rather than about the planning situation, which, as Gillian McNaught rightly said,

is a very different thing. I make that observation in the first instance.

Going back to the question on the delay, it is absolutely critical that there is a delay at this point. As our evidence has shown, the legislation as introduced is flawed and is hugely damaging to our sector in Scotland. The self-catering sector alone represents £867 million to the Scottish economy. In addition, there are bed and breakfasts, guest houses and so on, which are being hugely affected.

The legislation is affecting not only our premises, our properties, our incomes and our legitimate livelihoods, it is also affecting attractions and the wider hospitality sector, in which we spend an awful lot of money all over the country. It is having an impact on investment organisations and a huge impact on brokers. People cannot buy and people cannot sell. We have given clear evidence of why this is not working, and we absolutely can find a solution. This is a great opportunity to do that—the delay is incredibly welcome and incredibly necessary in order to find that right solution.

I also highlight that when the letter came from the cabinet secretary on 7 December, people stopped applying and opened their calendars. It is really important that we all reflect on the fact that calendars are now open, as the legislation will have an effect on whether we can honour those bookings.

I also reflect on one of the committee members saying that short-term lets are “party flats”. We are not party flats; we are professional legitimate businesses with legitimate livelihoods, and those livelihoods need to be protected. I am really happy to work with the committee to find a way through this.

The Convener: Thank you, Fiona. For clarity, the purpose of today’s evidence is to consider the delay. We are not considering changing the legislation in any way.

Julia Amour, are you aware of any evidence that the short-term licensing regime is adversely affecting Scotland’s tourism economy, or is it too early to tell?

10:45

Julia Amour: Given that we are not yet close to the deadline, there is no firm evidence about how the industry will behave. However, the committee will have received evidence from some of the major fringe festival venues about a survey that was carried out in Edinburgh last autumn, in which more than 300 operators of properties that they use participated. The results of the survey suggested that less than 10 per cent of those

accommodation providers expected to be able to make their accommodation available under the regime that the City of Edinburgh Council is considering. That is on both the licensing and planning fronts. One of the previous witnesses noted that, in Edinburgh, the planning provisions are set to come into force at the same time as the licensing provisions, so it is difficult to disentangle the effects of those two things.

The Edinburgh Festival Fringe Society, which is the small charity that co-ordinates the wishes of individual arts companies and venues to take part in the fringe took a slightly more conservative view that perhaps 50 per cent of activity might be prevented by people being able to get accommodation. People tell us that the cost of accommodation is the biggest single barrier to them coming to Edinburgh in August. Even if there is only a 50 per cent reduction in supply during that peak season when we need a surge of temporary supply, that would amount to a third of the fringe’s programme. The programme was smaller in 2022, having bounced back very successfully but at a smaller scale post-Covid, but this could result in a further drop of 30 to 50 per cent in the scale of what is able to happen in Edinburgh in August.

Some people might think it an attractive idea for the fringe to resize. However, it is not a managed consolidation but an economic shock, which would not simply have the effect of reducing the numbers of shows and workers. Cliff Hague may feel that that isolated figure of 700 jobs is not a large one, but it is the start of a downward spiral: the fewer shows there are, the fewer reviewers there are, the fewer bookers there are and the smaller the audiences are—in just a few years, Scotland will have lost a unique part of its intangible cultural heritage. It is not just an Edinburgh issue.

Although we do not fully know the impacts yet, the leading indicators show a real risk. Assembly, which is one of the largest venues on the fringe, has said that producers are bringing about 50 per cent of the work that they were bringing to Edinburgh previously. Those leading indicators are not false flags. The effect is starting to happen.

The Convener: Fiona Campbell, do you have a sense of the impact yet?

Fiona Campbell: Absolutely. I agree with those comments about the wider impact on the economy and so forth, which we will not know about until further down the line. However, it is having an impact on small businesses and accommodation providers right now. We are talking about additional costs associated with licensing. We already complied with the health and safety legislation, but further requirements have been added, such as the requirement for electrical installation condition reports and portable

appliance testing. People have to come out do those. As we have heard today, people are finding it incredibly difficult to find service providers and tradesmen, particularly in island and rural locations.

We are also dealing with the cost of living crisis and guests' altered behaviour at the moment. People are not booking in the way that they booked previously. Bookings are patchy; we do not have the income to cover all this front-loaded expenditure.

The committee has heard a lot about layout plans. I am happy to go into detail on that issue, which is really significant. Such plans cost a lot of money—you cannot just do one on a piece of graph paper.

Then there is the planning consideration, which was shoehorned in at paragraph 13 of schedule 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022. That is a real issue, which is causing huge concern to small operators, because it was never an issue before.

Then there are the extraordinary fees across Scotland, which do not meet the aspirations of the business and regulatory impact assessment, which gave a range from £214 to £436.

There is huge uncertainty. The additional conditions in some areas are extraordinary and are ultra vires, given the legislation. All that means that the approach is incredibly difficult, damaging and stressful for small accommodation providers. It is disproportionate, and what is happening has gone beyond the scope of the legislation.

People really are giving up their businesses and livelihoods—it is happening in real time. Small B and Bs that have operated for decades are closing, because what is demanded is too much. It is too much and it is unnecessary, and people are leaving the sector in droves—we see that left, right and centre. Self-caterers are selling their businesses, which are being bought by second-home owners. That will exacerbate the problem of second homes and will not help with housing.

The Convener: Thank you for that. I think that you stopped there—I do not think that you were cut off.

Willie Coffey: Fiona Campbell, I want to give you the opportunity to share with the committee the unintended consequences of the licensing scheme. You touched on a few. So that we can get a complete picture on the record, will you talk about any other areas of concern that you have?

Fiona Campbell: I will not repeat the substantive written evidence that we submitted, which gives examples and details. The unintended consequences include the wide discrepancies

across local authority areas. There are completely different requirements depending on whether someone is in the Western Isles or the Borders. There are ultra vires policies in some cases, with additional conditions around carpeting and so on. In Dundee City, there is a requirement for additional cutlery space, and in Argyll and Bute and Aberdeenshire there are additional conditions around boat and bike hire, which have nothing to do with the provision of accommodation.

Then there are the planning considerations, which are the really big unintended consequences. A look at South Ayrshire Council's meeting papers for 15 December demonstrates how the complications around the additional planning consideration have confused licensing authorities. As Gillian McNaught said, two completely different regimes have been conflated and one is being used to confuse another. It is not working and it is causing huge amounts of stress. The planning element is probably one of the biggest threats in all this. Licensing authorities clearly do not understand the requirements—I refer members to the meeting of 15 December in South Ayrshire.

The really big block is the investment barrier. Lenders simply will not lend on the basis of the new licensing legislation. We have had that in writing from two of the biggest lenders in the country. The issue is affecting small, local brokers, whose livelihoods depend on such lending. They simply cannot find the lending to support people, whether people want to buy new properties or invest in an existing one—for example, by putting on a new roof. Lenders will not lend to them.

In addition, property owners cannot sell their properties under the current regime. There is therefore a barrier to both buying and selling. People cannot even exit the sector. That is a huge problem.

There is also a booking problem. People are not booking. Why would someone book a property if the owner might not be able to honour the booking?

Lots of people using our sector make a booking a year and a half in advance. If they are not sure that you will be able to honour that booking on the basis that a licensing application is under way, they will not make the booking; they will go elsewhere. That is happening, and people are staying in England instead. We do not want that as a nation, do we?

I will not go into detail—it is in our written evidence—but I am happy to expand on any of those points.

Willie Coffey: You might have heard our previous session in which my learned colleague sitting beside me, Miles Briggs, asked a question about floor plans. Glasgow City Council and

Highland Council said that hand-drawn drawings and layout plans are acceptable. A scale of 1:50 was mentioned. What is your response to their evidence? I note that you said that doing that could cost a lot of money and that you cannot do that on a piece of graph paper. There seem to be two different points of view on the issue.

Fiona Campbell: Absolutely. If you—*[Inaudible.]*—pull the legislation together, and I have done so, the requirement for plans is to evidence maximum occupancy—nothing more, nothing less. The purpose of that is to say that, for example, if you have got a five-bedroom house, that you sleep 10. However, if I say that I have a five-bedroom and I sleep 42, you might want to give me a call to ask how that happens. The requirement for the plans is simply for the maximum occupancy element of the licensing. It is not for fire provision. The Scottish Fire and Rescue Service does not require plans. Nobody else needs plans. Highland Council is asking for a site plan. That is planning, not licensing. Licensing is not about the health and safety of the activity.

On why you do not need the layout plans, the statutory consultees do not require that as per this legislation. They would require it for the Licensing (Scotland) Act 2005 and they might require something else for HMO licensing. The problem that we are finding is that different local authorities are pulling in different legislative regimes, conflating them, gold plating provisions and asking for all sorts of things that simply are not required.

I go back to the realities of the costs. Officials have said that we were possibly overstating that it costs £600 plus VAT to deliver a 1:50 scale plan. Unfortunately, that is not true. I have got the invoice and I have paid it; that is what it costs. Realistically, you cannot do that to that scale appropriately otherwise.

If we go back to the beginning of the discussion, this is about maximum occupancy. If you have a five-bedroom house and you sleep 10, that information should be adequate.

Willie Coffey: Okay. Thank you very much for putting all that on the record. Julia, do you have any comments to throw into the mix on the subject of unintended consequences?

Julia Amour: Yes, it would be good if I could come back in on that, as that gets to the heart of the point about temporary exemptions for up to six weeks. How that was written into the legislation is to have a mechanism to account for the surge demand that you need to put in place if you are going to stage major events in Scotland—in line with the “Scotland, the perfect stage” approach—whether in Edinburgh in peak seasons or in other bits of the country, as Rob Dickson mentioned.

That provision has been interpreted differently across the country.

Although the Cabinet Secretary for Social Justice, Housing and Local Government has said that it was not intended that that provision should lead to mandatory and additional conditions necessarily being required for people who are letting out in different circumstances, including home stays and people letting out their house for short periods when they go on holiday, that has happened in Edinburgh. Almost all the same conditions, with the same costs, are being required of people who simply want to have a short-term ability to let out of their home. They would be able to do that if they were hosting an exchange student or a longer-term lodger, for example. I guess that that is an unintended consequence. We need to get clarity at a national level about the policy intention behind the longer lead-in time to people making their applications and how that can be properly enacted.

Willie Coffey: I have another question, which is probably only for Fiona Campbell. You said in your submission that you would like to see an immediate review of the licensing scheme rather than wait until the system is fully embedded in 12 or 18 months’ time, which I think was the period that was mentioned in the previous session. Why are you calling for an immediate review, before the scheme has had the chance to bed in?

11:00

Fiona Campbell: We should take the opportunity to review the scheme from the ground up, because it is clearly not working, as we have evidenced.

I mean something different by “review”. I do not mean that we should look at what has happened, because we can already see that the scheme is not working. How can we review that and make it better, so that it is fit for purpose? There is no point in waiting to see how many people leave the sector because the scheme is hugely damaging before we reflect on that.

We must protect businesses. As the First Minister said at the business in Parliament reception on Thursday, it is

“incumbent on the Scottish Government”

to protect and support businesses through this incredibly difficult time. The legislation is hugely damaging. I say again that these are legitimate businesses and people’s livelihoods. We are not talking about Airbnb or party flats; we are talking about legitimate businesses that are being caused a huge amount of pain.

It seems to me that the delay gives us a fantastic opportunity to look at the scheme—even

if we just look at the guidance—to ensure that it becomes fit for purpose. We are going off track, and we need to get back on track as soon as possible. People are being impacted and are leaving the sector today.

Willie Coffey: Does Julia Amour have anything to add on whether we should have a review now or later or on whether we should abandon or continue the scheme?

Julia Amour: We will not find out the full scope of this until we are further down the track, but we have to take account of leading indicators. There is a really important opportunity to take more time so that the legislation can be implemented consistently and smoothly, and to look at whether some aspects of the scheme are not having the effect that was intended.

I cannot prescribe whether we should have a full review or whether we should keep the timings under review until all the anomalies have been properly discussed and sorted out. This has been in gestation for a long time, but the legislation is complex and wide ranging, with national and local aspects. If we take tourism and the creative industries together, it affects a sector that accounts for about 12 per cent of employment in Scotland. The figure is the same in Edinburgh. I do not dispute what the Cockburn Association said about the importance of the health and education sectors in Edinburgh, but the arts, recreation and the visitor economy between them account for 44,000 workers in the city, which is more than the number working in finance or in education. That sector is very important, so we need to look carefully at any major changes.

Willie Coffey: I thank you both for your contributions.

Paul McLennan: Julia Amour highlighted concerns about the system that governs temporary exemptions. We have heard about the impact that that would have on the festival, and we have seen your evidence. Can you say more about how that could be overcome? I have a related question about home sharing, which takes place during the festival. Can you comment on both those things?

Julia Amour: Home sharing and home letting have been a part of that intangible cultural heritage since 1947, when the festivals started. The fact that there is a mingling of Scottish and world cultures and that people host others in their homes is part of what makes Edinburgh special, on a global scale, at that time of year. It would be very damaging if that was deterred.

There is no quantitative evidence of this, but there is certainly plenty of anecdotal evidence that people who choose to share or let their home for a few weeks when it suits them—they might not do

so every year—would be deterred by a scheme that expects them to tick all the same boxes that need to be ticked by people who let a property all year round. We have heard from plenty of people who have said that they would not continue with that under those circumstances.

There is also a local wealth building aspect. The further we get into the cost of living crisis, the more people are looking to afford their own homes, which might have become unaffordable to them. We spoke to the local homeless charity the Cyrenians, and it agreed that home letting and home sharing are good ways to enable people to manage their costs in an expensive city such as Edinburgh. That is an important part of the culture, and it has a resonance beyond Edinburgh. Scotland is known around the world for the Edinburgh festivals, which are a cornerstone of our visitor economy, so it is important that we get this right. At present, there is a mismatch between what the legislation was designed to do through temporary exemptions that let people do very temporary house sharing or house letting without as heavy a touch as a 365-days-a-year restriction, and how it is working in practice.

I am not a policy maker but, in my view, the simplest thing would be to look to the exclusion that is already in the 1982 act, which covers home stays for students for educational purposes, and consider whether it could be clarified that that type of exclusion could be adapted to cover major festivals and events.

Paul McLennan: I represent East Lothian, where we have the Scottish open—thankfully—every year. The issue of home sharing and house letting comes up every year, so I am aware of the issues that exist.

I thank Julia Amour for her answer. More broadly, to open up the discussion to Fiona Campbell, I note that we have talked about the licensing scheme being a barrier into the short-term letting market. Fiona, you touched on that issue, so you might want to say a little bit more. You also mentioned that the licensing scheme is applied inconsistently.

Those questions might be more for Fiona, but Julia might want to say something in relation to any feedback on those two issues from speaking to people.

Julia Amour: Fiona Campbell has worked in the industry, whereas we are a user of the industry, so I defer to her.

Fiona Campbell: Thank you. There is a whole pile of things to unpack there. With all due respect to colleagues at Festivals Edinburgh, although Edinburgh is critical to our nation, a lot of the conversation is very Edinburgh-centric. We have

to remember that the legislation covers the whole of Scotland, including our rural areas and islands.

None of the conversations that we are having today really help our 87-year-old member who has been a self-caterer for 43 years with no problems, but who lives in Sutherland and will have to get a taxi to Inverness in order to complete his online application because there is no paper equivalent. Nor will our conversations today affect our 47-year-old member in Edinburgh who is suffering from a degenerative disease and has had to sell their property because they simply will not be able to get planning or a licence due to the rebuttal presumption. These conversations will not help our 60-year-old member from Cumbrae who has been a carer for 10 years. Sadly, her husband just died. She does not know what to do, because she does not think that she will be able to get through these licensing hoops.

We have to remember that we are talking about real people and their livelihoods. Julia Amour is absolutely right to highlight that people in the middle of a cost of living crisis want to use their property—it is their property and their asset—in order to augment their income to cover mortgage fees. They will not be able to jump through the hoops and meet the additional conditions, especially in Edinburgh, given the cost that is associated with that.

Although it is right to highlight that Glasgow City Council has kept its fees relatively low, it will not give out many licences because people simply will not meet the planning and licensing conditions. In fact, if we look at the fees across the board, we see that, in Perth and Kinross Council, the fee goes up to £1,600; in Dundee City Council, it goes up to £3,100; and, in Edinburgh, it goes up to £5,869 for a one-year licence for larger properties. Those are not insignificant amounts of money.

In the earlier session, Ailsa Raeburn said that licensing is great because it means that there is parity with private residential tenancies. However, there is no parity with PRT registration. PRT, which is covered by exactly the same health and safety legislation, costs £68 for the landlord, plus £14 per property, for a three-year private registration. That is under £100. Does the committee think that it is appropriate that that will cost a private landlord £100, whereas a self-caterer, who is assessed according to exactly the same health and safety criteria, would have to pay more than £100? That does not seem to make any sense.

Paul McLennan: You spoke earlier about a conflation between control areas and licensing. You touched on that in response to the first question. I have seen evidence suggesting that planning and licensing issues are being conflated. Do you wish to say any more on that?

Fiona Campbell: You are absolutely right: planning has become one of the biggest threats to our sector. In schedule 3 to the amended 1982 act, paragraph 13, headed “Planning Permission”, states:

“Where the premises is in a short-term let control area for the purposes of ... the Town and Country Planning (Scotland) Act 1997 ... the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure”

that they make or have made an application for planning permission.

However, in South Ayrshire, for example, the licence condition is that people will have to clarify either that they do not require planning permission or that they do require it and have permission, as part of the licensing consideration. That is not what the legislation says, but that is how the local authority has interpreted it. There is therefore disparity between different local authorities. Argyll and Bute Council is not asking for planning permission unless it is for a planning control area or there has been a material change of use. Clearly, planning permission will always be required when there is a material change of use, but we must be careful not to apply retrospective planning permission requirements to businesses that have invested heavily over a number of years—whether that is two, five, 10 or 20 years—because that requirement has suddenly been conflated with a licensing scheme. Those are two completely different regimes, and they need to be looked at with different eyes. That is impossible, however, given the provisions of schedule 3(13).

Miles Briggs: Good morning, and thank you for joining us. I am sorry for disturbing your holiday, Fiona. I was wondering where that painting behind you was from—the Highlands, perhaps.

I wish to ask you a couple of questions on some points that we have touched on already, and which I raised earlier, regarding the national planning framework and, specifically, guidance. We will consider legislation in the area, as well as how guidance filters down to councils and how it is interpreted. What is your current understanding of how policy 30(e) of NPF4 is being interpreted?

I put the question to Fiona Campbell first; Julia Amour may wish to add something.

Fiona Campbell: You are absolutely right that when we submitted our application to the NPF4 consultation, we referred to policy 30(e) because there is a real problem. It is an overarching policy that feeds into various planning policies and local development plans. While some local authorities will not use it and will just shelve it, because it is not relevant—which we welcome—other local authorities, such as the City of Edinburgh Council, will start using it immediately.

The policy says that people must show evidence that the benefit of providing a short-term let outweighs any residential benefit. That becomes incredibly subjective. The City of Edinburgh Council planning authority has already written to every single outstanding planning applicant, of which there are several hundred. The council has waited for NPF4 to come out—allegedly, or possibly—so that it can now say that applicants will need to evidence that benefit.

That has an on-going effect on all sorts of rural businesses, particularly agritourism businesses, because part of the policy is that people need to produce evidence that they have good transport links. We have all been to rural parts of the Highlands, and they do not have good transport links. Does that mean that we would not get planning permission?

We have to be really careful that NPF4 is not yet another layer of unintended consequences waiting to happen, which could damage a sector that really needs support and which the Scottish Government has committed to support.

Miles Briggs: Julia—do you have anything to add?

11:15

Julia Amour: It will not surprise you to know that I am not an expert on NPF4. However, I think that on the question of it being hard to evidence the economic benefit of change of use outweighing the economic benefit of residential use, there is a sort of analogue with something that the City of Edinburgh Council has said to us, which is that it has not proposed to carry out an economic assessment of the licensing arrangements because the Scottish Government has already undertaken a business and regulatory impact assessment. Those things are not the same. If there is a keen interest in doing a proper 360° impact assessment, such an assessment should be done before major decisions are made about what changes the legislation will bring in, rather than in retrospect and by trying to aggregate every single individual case, because things do not usually work like that.

Miles Briggs: Thank you. We have already touched on planning permissions around existing homes and short-term lets outwith control areas. In your opinion, given where we are with the new regulations, is there a way of resolving the matter by tweaking the system that has been put in place to make the policy work?

I do not want us to focus only on Edinburgh, but I will, as an Edinburgh MSP. There is obviously a major events issue that the legislation has come up against, which is our festival. Are there ways of developing specific exemptions, such as the ones

that you have submitted to the committee, to provide for that as well as for the health and safety element, which is what the Scottish Government originally said the legislation was about?

Julia Amour: I feel that there is already a precedent in relation to the health and safety aspect, which is that one does not have to have a licence to host students, whether they are adult or of school age, if they are attending a language school, for example. Therefore, it is not the case that the legislation sets out that all properties should be regulated and that all of them should be licensed in all circumstances.

If it is legitimate to host a young language learner for a brief time, I feel that there is no real case for it to be illegitimate to host an adult festival worker, especially when, in other bits of the housing system, a person can have a lodger in their house without declaring themselves to be a landlord and without having to be licensed as a landlord. It is not that difficult to draw parallels with the use cases that the committee and the Government have before them.

On secondary short-term lets, it is a question of getting the best evidence base about the impacts, both positive and negative, of making the changes. I do not pretend that that is easy to do and it is not something that the festival directors collectively are taking a view on because we do not think that we are the people who can make that decision.

However, in relation to the evidence base, we put something in the public domain which we copied to you as evidence. It was a bar chart using published information on things such as tourism figures and numbers of Airbnbs. We know that the figures in there can be interpreted and analysed in various ways, and we know that the Association of Scotland's Self-Caterers has a different analysis of the total number of properties that are available through Airbnb and similar platforms. However, we are starting that process because we believe that the City of Edinburgh Council and the Scottish Government, as well as national agencies, should be helping to improve the estimates and helping us to understand the scale of the problem.

If the sizes of segments including home-letting, home-sharing and secondary lets in whole properties that are not currently registered under planning permission are of anything like the magnitude that the bar chart shows, there is a significant issue. Before we bring in a blanket policy, that picture needs to be understood more clearly.

Miles Briggs: I note the specific call in your evidence for an amendment for Edinburgh during August, as well. Fiona—do you have anything to add?

Fiona Campbell: Thank you. Although we believe that temporary exemptions are a good option, an exemption from the requirements of the health and safety mandatory conditions for a short time would undermine the entire proposed purpose of the legislation. I cannot see how it would be okay to let people stay in an unsafe property for six weeks over the summer when it would be imperative that the property meet all the mandatory conditions during the rest of the year. That is a difficult point—rightly so.

I concur with Julia Amour that the lack of data to underpin the legislation from day 1 has been deplorable. The first Indigo House report, which was published in March 2018—the bedrock on which all this is based—was fundamentally flawed. We complained to the Scottish Government about it at the time. The numbers that came out of that report—32,000 short-term lets in Scotland and 12,000 in Edinburgh—never existed; the data was completely incorrect. However, that narrative has become perceived as fact, and that is what we are basing all this on.

In reality—I apologise to the rest of Scotland, but I am referring again to Edinburgh—there are 1,364 self-catering units on non-domestic rates and about 4,500 entire properties. Even the planning committee in the city council said in February 2022 that the figure that it has for Airbnbs in Edinburgh is 4,077. I hasten to add that an Airbnb is not a short-term let—it is like that “hoover and vacuum cleaner” question.

The fact is that we do not have the data that we need to make realistic and robust policy. That aspect has been fundamentally flawed all the way through the process, which is regrettable. However, we have time to change things so that we do not get all the unintended consequences—as, I think, we have adequately evidenced in our submission.

Mark Griffin: I want to direct a question to Fiona Campbell. You spoke earlier about the need for the Government to carry out a review. You have called, if the Government does not agree to that early review, for an urgent rewrite of the guidance. Would you like the opportunity to put on the record what you feel the reasons are for a rewrite, and what you would like to see in revised guidance?

Fiona Campbell: Thank you. We welcome that opportunity.

First, I reiterate that the ASSC is not against regulations: we have been calling for regulations since 2019. We suggested a registration scheme with mandatory health and safety conditions. It is regrettable that that is being delivered via licensing, which is an authorisation scheme. We still think that a notification scheme would suffice.

Legislation for private residential landlords is delivered by the Antisocial Behaviour etc (Scotland) Act 2004, which covers exactly the same health and safety provision and compliance that we are talking about for short-term lets. We absolutely believe that the licensing scheme is so damaging and so badly flawed that we should look at an alternative legislative conduit; we should not just go ahead with something that fundamentally cannot be fixed by a few tweaks. The investment barrier will continue while a licensing scheme is in place.

We need to go back and look at what the best conduit is for the legislation. The Antisocial Behaviour etc (Scotland) Act 2004 would cover both health and safety and antisocial behaviour issues. Planning is already covered, too, as part of the Planning (Scotland) Act 2019. With those acts, every single one of the policy objectives and the human interest that the Scottish Government is trying to deal with now are covered, and without all the damaging unintended consequences.

It is incredibly important, too, that we look at giving grandfather rights to existing businesses, because the uncertainty is devastating for them. It really is impossible to continue working under these conditions. Whether under licensing or planning, we need to give grandfather rights to legitimate businesses that have not caused problems for their communities. We have to stop blaming holiday accommodation for housing inadequacies. It is critical that we look at the very complex picture with greater vision and understanding and without having knee-jerk reactions. This is an amazing opportunity to get it right.

The tourism strategy “Scotland Outlook 2030” shows that we need to grow tourism responsibly and sustainably, but the order is not the way to do it. This is an amazing opportunity to be world-leading, rather than regressive.

Mark Griffin: Thank you.

Annie Wells (Glasgow) (Con): We have heard a lot from both panels today. Is there anything else that you think the committee should know about operation of short-term lets that we have not already discussed? If there is something that we have not touched on, can you tell us more?

Julia Amour: Thank you for the question. It gives me a great opportunity to say what is in my head, so I am trying to work out what that is.

The operation of short-term lets has been happening de facto for the whole history of Edinburgh’s festivals, and the festivals would not be able to happen without some surge capacity. The most efficient way for that to happen is to find routes to allow people to make their homes available without undue red tape. There is

underlying visitor accommodation capacity across the city; as we move legislation through, it is important that we maintain a distinction in our minds between those two things. The festivals use underlying capacity, so some of the issues that Fiona Campbell wants to talk to the committee about on behalf of her association are relevant, but festival directors are keen for me to emphasise that streamlining, making straightforward and clarifying surge capacity is a really big issue.

We are not talking about antisocial behaviour when we are talking about festival workers because they are in the city as cultural workers, not to visit party flats. There is a distinction. I know that Cliff Hague was talking about staying in a Holiday Inn versus staying in a flat, but one of the unique things about Edinburgh in August is that people come with their work; they bring their work to a marketplace for two or three weeks. That is a rather different visiting model from visiting short-term. The reason why 10 per cent of Edinburgh's hotel-room capacity is not taken up in August is because hotels are charging north of £500 per night for a room. Everybody who has tried to get a room in Edinburgh for Hogmanay will realise that that also happens in that season.

The dynamic is complicated and I know that I am focusing on the capital. We have 500 suppliers and 1,000 performers who come from across Scotland to the capital to meet the world. I do not, however, want overly to weight consideration towards one local authority area, because that would have repercussions across the nation.

Fiona Campbell: The critical point is that we need to revisit the policy intention. Is it about housing, health and safety or antisocial behaviour? We need to focus on the mandatory health and safety conditions, which are about the safety of activity, and we need remind ourselves why are we doing something; we can do that using existing legislation and regulations.

We should not duplicate regimes, but that is what we are doing. We need to use existing planning legislation that is up to date and meaningful, and we need to protect existing operators via grandfather rights. It is not fair to take people's businesses and livelihoods away from them.

We need to remove the presumption that there is bad practice. It is absolutely critical that everybody remembers that there are thousands of incredibly professional business operators out there that offer wonderful experiences throughout the country, but all we are told is that we are puppy farmers, sex traffickers and drug dealers. It is incredibly offensive. Let us remove that presumption about bad practice and celebrate the people who are good operators.

We also need to remove the overreach related to issues such as people having to get out of hot tubs at 10 pm. At what point and in what other accommodation sector do you tell anybody in the world that they need to get out of a hot tub at a specific time? That is barbaric, extraordinary and unenforceable—therefore, it is incompetent.

We need to withdraw all the ultra vires policies. We need to go back to the beginning and ask ourselves what is the mischief that we are trying to resolve. At the moment, everything is conflated to a level at which it is impossible to unpick it. We believe that the legislation requires a material rewrite, rather than the guidance or legislation being tweaked.

At the beginning of this meeting, the convener said that the delay is imperative in order to address all the points that have been raised today.

Annie Wells: Thank you. I hand back to the convener.

The Convener: I just want to clarify that I did not say that any "delay is imperative"; I was reading from Shona Robison's letter.

Thank you for joining us today and for your evidence.

Colleagues, we agreed at the start of the meeting to take the next two items in private so, as that was the final public item on our agenda today, I now close the public part of the meeting.

11:31

Meeting continued in private until 12:05.

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