

# FINAL REPORT OF THE SHORT TERM HOLIDAY LETTINGS WORKING GROUP

## EXECUTIVE SUMMARY

- 1.1 Allowing Londoners to earn extra money, boosting tourism and bringing the short term rental market up to date with the internet age were all given as reasons for amending the law in 2015 relating to short term holiday lettings. However, many Londoners have found, in common with residents of other global cities, that the increase in short term holiday lettings has coincided with an increase in anti-social behaviour, the deterioration of the neighbourhood environment and in addition to this local business have raised concerns about the impacts. Concerns have also been expressed in many cities with a large number of short term lettings about the consequent loss of permanent residential accommodation.
- 1.2 The nationally accepted **definition of a short term holiday letting** is temporary sleeping accommodation that is available for no more than 90 nights a year. Out of scope of this piece of work was rooms let out on a bed and breakfast basis for not more than 90 days a year as well as designated temporary accommodation (hostels etc.).
- 1.3 Many residents and businesses in Kensington and Chelsea have experienced inconvenience and disruption to their daily lives and work activities as a direct consequence of these short term holiday lettings. In response, the members of the Council's Scrutiny Committees set up a cross-party Working Group to explore the issues in greater depth. The members of the Working Group included **Councillors Spalding (Chairman), Blakeman, Condon-Simmonds and Press**. The terms of reference and methodology are included with the Main Report as appendices one and two.
- 1.4 The **overarching conclusion** reached by the Working Group was formed by listening to information contributed by residents, local businesses (and their representative bodies) as well as housing organisations. This was supplemented with information from planning and enforcement offices about the powers and polices of the Council as well as performance information. In making their recommendations, the Working Group were mindful that some short term lettings

companies were working to develop good practice and recognised the issues that could arise without careful management.

The Working Group concluded that short term lettings had contributed to the loss of permanent residential accommodation in the borough with consequences for both housing supply and rent levels. These lettings had affected the quality of life of borough residents and had an impact on local businesses.

1.5 The Working Group detailed findings were that short term holiday lettings had:

- Contributed to the **permanent loss of residential accommodation** in the borough;
- **Impacted on residents of blocks of flats** by potentially invalidating block insurance, caused security issues in those blocks with a shared communal entrance and also caused damage to internal communal areas above what would be considered fair wear and tear;
- **Impacted on the wider neighbourhood** with anti-social behaviour ranging from noisy parties to late night arrivals and departures, as well as unauthorised rubbish dumping. There was also police involvement when there were reports of criminal behaviour;
- Contributed to the **bye-laws relating to garden squares** being contravened;
- **Impacted on landlords and managing agencies** who shared many of the concerns or residents;
- **Impacted on the local economy** by for example, creating an uneven playing field for hotels as the original idea of hosts renting out a spare room had in some cases been replaced with highly competitive business operations; and
- There were examples of **good practice** contributed by some of the short term lettings agencies.

1.6 The Working Group has made 9 recommendations in its full report which is attached as Appendix One. Some of these recommendations relate to lobbying activities in partnership with similarly affected local

authorities, the Greater London Authority or representative bodies such as the British Hospitality Association.

1.7 The Working Group recommends that the Council:

- **Lobbies** government for the introduction of **primary legislation** to compel short term holiday lettings hosts to apply to the relevant council for a licence to permit them to do so and to apply to be included in a register to be kept by the Council. This lobbying activity would be more effective if the Council works with similarly affected local authorities, the London Mayor and other key stakeholders.
- When national or London policy allows, adopts a **self-financing compulsory registration and licensing scheme** for short term holiday lettings platforms, service agencies and hosts. Any London scheme introduced by the Mayor should include **enforceable standards**.
- Investigates the use of a **selective licensing pilot scheme** in three of the worst affected wards or neighbourhoods. The resource implications of this to be analysed and compared to the implementation and impact of such schemes in other boroughs.
- Produces information on its **website for private sector tenants and leaseholders** on which agencies to contact about the impact of short term holiday lettings (e.g. breaches of leasehold conditions and insurance matters).
- Produces a landlord, leaseholder and tenant **guide to anti-social behaviour in private property lettings** including the various options for tackling this including Community Triggers, Community Protection Notices) and section 33 of the Environmental Protection Act (1990).
- Reviews the **delegated powers of officers** with enforcement duties and responsibilities (including environmental health, noise, nuisance) to promote a 'joined up approach' to tackling issues.
- Considers how the **Private Sector Housing Officer** can work with Garden Committees and short term lettings agencies over complaints about misuse of such gardens.

- Ensures all new **Council leasehold property leases** contain terms and conditions that prohibit short term holiday lettings, or any lettings for less than six months.
- The Council **lobbies short term holiday lettings companies to improve** their operations in relation to enforcement. For example:
  - Hosts who list properties on lettings platforms should be asked to provide proof of their right so to do, such as a copy of the relevant lease or tenancy agreement clause;
  - Short term holiday letting hosts include in their signed agreement a statement that they have either the right themselves or the written agreement of their landlord (and provide it) to rent a room in their property; and
  - All hosts additionally be required to sign an agreement that such use does not and will not contravene any buildings insurance, any Council regulations or any local and resident byelaws; and take out commercial waste contracts.

On behalf of the Working Group I would like to thank all of those who contributed information to this review especially residents and local businesses as well as the officers who provided information and support.

**Councillor Malcolm Spalding**

**Chairman of the Scrutiny Working Group**

# **MAIN REPORT OF THE SHORT TERM HOLIDAY LETTINGS WORKING GROUP**

**Section One**      Background information

**Section Two**      Themes

One - Planning Controls

Two - The Impact on Neighbours and Neighbourhoods

Three - The Impact on Businesses and the Local Economy

Four - The Impact on Housing

Five - Short Term Housing Letting Agencies

Addendum



## **SECTION ONE**

### **BACKGROUND INFORMATION**

- 1.1 The Working Group was keen to understand the volume of short term holiday lettings in the borough and how this compared over time as well as with other London boroughs. A number of sources of information were used including newspaper articles, information from the Kensington Society, from Colliers International and the London School of Economics as well as the Inside Airbnb website.
- 1.2 Members of the Working Group reviewed information about action taken in other countries and cities to curb short term holiday lettings.

### **External Research**

- 1.3 Research from Colliers International, Hotelschool, The Hague and AirDNA published in November 2016 found that just five areas in London were responsible for over one million Airbnb overnight stays in the previous year. *Airbnb – Impact and Outlook for London*, named the boroughs of Westminster, Tower Hamlets, Camden, Kensington and Chelsea and Hackney as accounting for more than half of all Airbnb bookings in London.
- 1.4 The Kensington Society in its Autumn Newsletter, Autumn 2016, included an in-depth article by Tom Blomberg. This described the scale of short term lettings in London, and included a very detailed analysis of how this operates in the borough with a description of some of the disruption caused for permanent residents.
- 1.5 As part of this review, the Working Group also used information on the Inside Airbnb website. The disclaimer is contained in Appendix Three.
- 1.6 Kensington and Chelsea listings on Airbnb (compiled on 4 March 2017 which was the most recent snapshot at the time of writing) comprise mostly of entire homes or apartments (74.7 per cent) and private rooms (24.3 per cent). Most the London boroughs have very few listings for shared rooms and often only make up one to two per cent of total listings. The breakdown of the top 6 boroughs is shown in Table 1.

Table 1

Boroughs	Entire home/apt	Private room	Shared room	Grand Total
Tower Hamlets	2,368 (42.19%)	3,148 (56.08%)	97 (1.73%)	5,613
Westminster	3,621 (67.54%)	1,697 (31.65%)	43 (0.8%)	5,361
Hackney	2,282 (48.68%)	2,368 (50.51%)	38 (0.81%)	4,688
Camden	2,322 (61.74%)	1,387 (36.88%)	52 (1.38%)	3,761
Islington	1,949 (54.4%)	1,587 (44.29%)	47 (1.31%)	3,583
<b>Kensington and Chelsea</b>	<b>2,598 (74.74%)</b>	<b>843 (24.25%)</b>	<b>35 (1.01%)</b>	<b>3,476</b>

- 1.7 Kensington and Chelsea has the second highest number of 'entire house/apartment' behind Westminster. Kensington and Chelsea has the highest density of listings with Tower Hamlets and Westminster coming in second and third. City of London has the 10<sup>th</sup> highest density of listings per borough.
- 1.8 As a listing on Airbnb does not guarantee that the property is being used as a short-term rental, the data has been filtered to count property listings in each London borough which have had reviews posted in the last six months and have over 90 days' availability showing on the calendar.

Table 2

Boroughs	Entire home/apt	Private room	Shared room	Total
Westminster	1,149 (65.7%)	585 (33.4%)	16 (0.9%)	1,750
Tower Hamlets	573 (39.3%)	858 (58.9%)	26 (1.8%)	1,457
Camden	708 (58.6%)	471 (39%)	30 (2.5%)	1,209
<b>Kensington and Chelsea</b>	<b>793 (73.7%)</b>	<b>278 (25.8%)</b>	<b>5 (0.5%)</b>	<b>1,076</b>
Hackney	512 (48.3%)	541 (51%)	8 (0.8%)	1,061

- 1.9 Looking at the differences between listings for entire homes/apartments and private rooms (the main type of listing on Airbnb), there is a slight trend towards more private rooms further away from Central London rather than entire properties. This is likely due to the larger sizes of properties further away from Central London and ability to split a property between owners and tenants. Properties in Central London are also likely to be more desirable for tourists who want a property to use as a base/alternative hotel.

1.10 There are 3,476 hosts that have listed properties/rooms in Kensington and Chelsea. Figure 1 below shows the number of hosts and the number of listings they have on Airbnb in Kensington and Chelsea, Hammersmith and Fulham, Westminster and Tower Hamlets. Most hosts only have one listing across all of the boroughs and there are generally insignificant differences between the boroughs and the hosts with more than one property listed on the site.

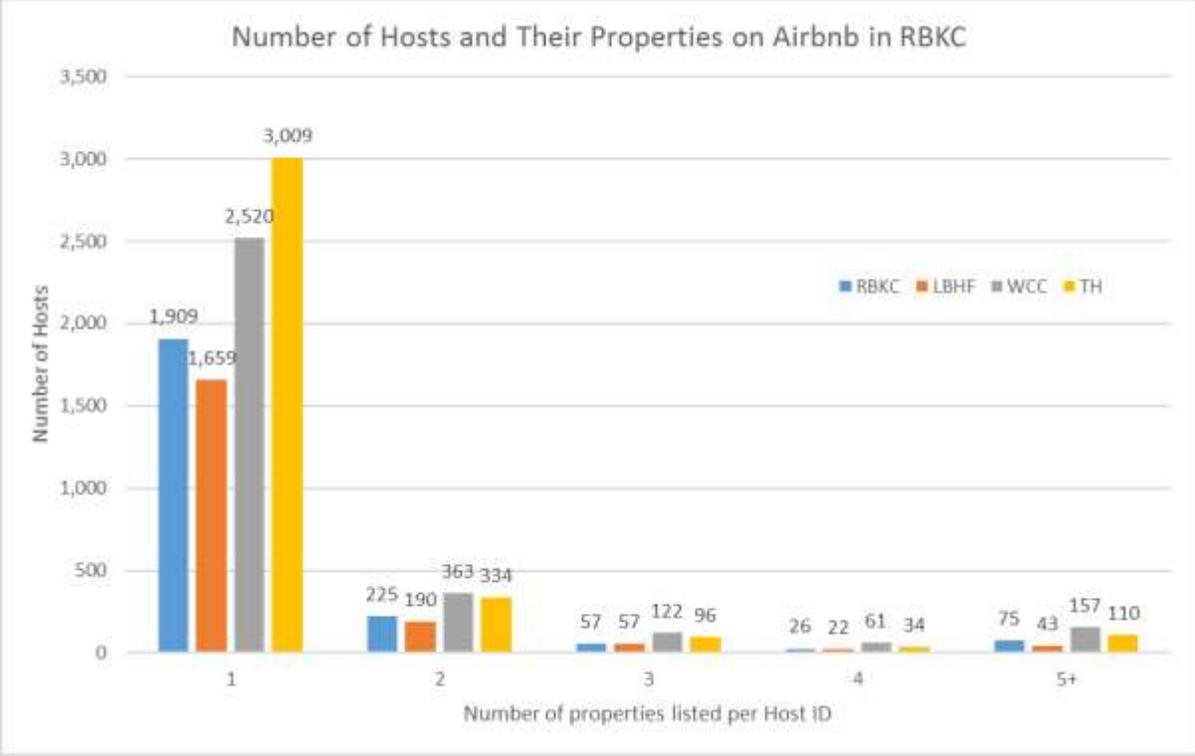


Figure 1: Number of Hosts and Number of Listings per Host

1.11 Previous snapshots of Airbnb listings are also available to download and are shown in Figure 2. Shared room listings have generally increased over the two-year period but remain around the one per cent of total listings figure. There have also been steady increases in the other two property types with “entire home” listings almost doubling in a year.

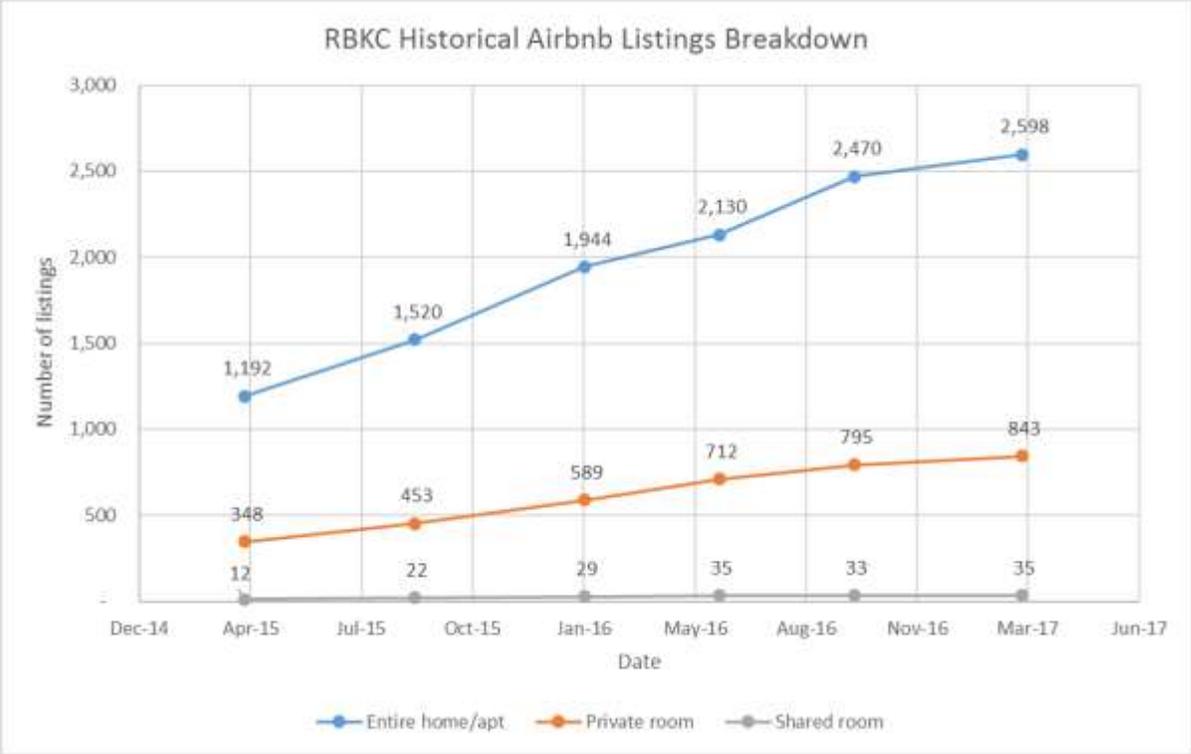


Figure 2: Historical Kensington and Chelsea Data

All data was provided by Inside Airbnb, 2017 (<http://insideairbnb.com/>)

## Responses of Other Countries to Short Term Holiday Lettings

1.13 There has been a variety of responses to short term holiday lettings and these are summarised in the table below and in greater detail in Appendix Four. Although information is available about the different approaches it is much more difficult to obtain information about how effective these have been. The table below gives summary information.

	Specific Legislation	Pre-existing Legislation	Register	Day Limit	Limitations	Health and Safety Specs	Taxes	Fine Company	Fine Individual
<b>Austria</b>	✓	X	✓	X	X	X	✓ 3.2%	X	✓ < €2,100
<b>Croatia</b>	X	✓licensing	✓	X	X	✓	✓	X	✓ + guest
<b>Cyprus</b>	✓	X	✓	X	X	✓	✓		✓
<b>Estonia</b>	✓	X	X	X	X	X	✓80% of price	X	✓
<b>France</b>	✓	X	✓	✓ - 120	X	X	✓	X	✓
<b>Germany</b>	✓	X	X	X	✓ 50% area	X	X	X	✓ < €100,000
<b>Greece</b>	✓	X	✓	✓ - 90	X	✓	✓	X	✓ < €5,000
<b>Iceland</b>	✓	X	✓	✓ - 90	✓ <1,000,000ISK	✓	X	X	✓ < 1,000,000ISK
<b>Ireland</b>	X	✓ planning	X	X	X	X	X	X	✓
<b>Italy</b>	✓	X	X	X	X	X	✓ 21%	X	✓
<b>Malta</b>	X	✓licensing	✓	X	X	✓	X	X	✓ < €23,293
<b>Netherlands</b>	✓	X	Standard residents register	✓ - 60	✓ 4 people max	✓	✓	X	✓
<b>Portugal</b>	✓	X	✓	X	X	X	X	✓	X
<b>Spain</b>	✓	X	✓	X	X	X	X	✓	X
<b>Switzerland</b>	X	X	✓	X	✓not for profit	X	✓if for profit	X	✓
<b>UK</b>	X	✓planning	X	✓ - 90	X	X	✓ +£1,000	X	✓



## SECTION TWO – REVIEW THEMES

### THEME ONE - PLANNING CONTROLS

The Working Group considered:

- The legislative background in detail;
- The Council's policies and enforcement; and
- Licensing and registration.

The Working Group recommends that the Council:

#### **Recommendation One**

- Lobbies government for the introduction of primary legislation to compel short term holiday lettings hosts to apply to the relevant council for **a licence to permit them to do so and to apply to be included in a register** to be kept by the Council. This lobbying activity will be more effective if the Council works with similarly affected local authorities, the London Mayor and other key stakeholders.

#### **Recommendation Two**

- When national or London policy allows, adopts a **self-financing compulsory registration and licensing scheme** for short term holiday lettings platforms, service agencies and hosts. Any London scheme introduced by the Mayor should include **enforceable standards**.

#### **Recommendation Three**

- Investigates the use of a **selective licensing pilot scheme** in three of the worst affected wards or neighbourhoods. The resource implications of this to be analysed and compared to the implementation and impact of such schemes in other boroughs.

### **Legislative Background**

- 2.1 **The Greater London Council (General Powers) Act 1973** section 25 required the letting out of residential accommodation for less than 90 days to be subject to planning permission. Breaches could result in enforcement action and a large fine of up to £20,000. There was no universally prescribed enforcement system and in practice local

authorities received very few planning applications and breaches were difficult to detect.

- 2.2 Over time there were suggestions this legislation, which only applied to London, should be modernised to benefit the tourism industry and to enable Londoners to participate in the emerging 'sharing economy' by letting out spare rooms in their homes. The 2012 London Olympics led to more calls for the legislation to be reviewed and government launched a discussion document in February 2015. **The Deregulation Act May 2015** sections 44 and 45 changed the law to permit short term holiday lets up to a total of 90 days in any calendar year without the need for planning permission. The Act did not introduce a register and some local authorities felt this made enforcement difficult as it was difficult to track when the 90-day period started or finished and so made enforcement difficult.

### **The Council's Policy and Enforcement**

- 2.3 The Council's planning policies are developed in accordance with the Local Plan which seeks to strike the right balance between the need for permanent residential accommodation and the provision of visitor accommodation. Planning Policy is opposed to temporary sleeping accommodation as it leads to loss of permanent residential accommodation. Currently the Council has a stretching annual housing target for 733 additional residential units. If units are used for temporary sleeping accommodation for 10 years or more then established use can be applied for, and the Planning Department is bound to grant a certificate of lawful use providing there is sufficient evidence that the use has subsisted for 10 years or more. This would change the premises in planning terms from a permanent residential use to a commercial use which would be sui generis.
- 2.4 Although a change of planning use to temporary sleeping accommodation is seen as technically a breach of the planning regulations, it is not illegal to do so. Only if an owner does not comply with the terms of an enforcement notice would a summary offence be committed. Enforcement complaints are confidential although the Council's Planning Department carries out land searches and notifies the owner of the property of the alleged change of use. In practice, many owners are not aware that their property is being used in this way but once contacted by the Planning Department, it is then for the owner to take appropriate action, for example terminating the lease.

- 2.5 The Working Group also considered whether it would be appropriate for the Council to apply to the Secretary of State for an Article 4 Direction.
- 2.6 An Article 4 Direction is a Planning tool for removing permitted development rights and means that planning permission would be required whereas in normal circumstances it would not be required. However, such a Direction can only be used when something is recognised as development. Normally the change of use of a building or land is recognised as development, but the Government have published legislation which says that for certain changes of use such development is permitted. The reason why an Article 4 Direction cannot be used to control short term letting accommodation is that the 90-day trigger before planning permission is required is not development in itself, it is a specific time period.
- 2.7 Since 1 January 2016 the Planning Enforcement Team have investigated 91 reports of properties being let out for more than 90 days a year through short term lettings agencies. The Council records the planning breach type as short term letting but does not record which platform the owner is using to advertise the property as available.
- 2.8 The Council has served 11 enforcement notices for the material change of use of the property from residential to temporary sleeping accommodation. A total of 9 of the enforcement notices have been complied with meaning that the use as temporary sleeping accommodation has ceased and the property has returned to residential use. The remaining 2 enforcement notices have yet to take effect.
- 2.9 As noted above, national legislation does not require short term holiday lettings hosts to register with the local authority. The Working Group formed the conclusion that this impedes the ability of the Council to both monitor and take effective enforcement action when the 90-day limit has been breached. A system of licensing and mandatory registration would promote responsible hosting and the fee would also cover additional costs incurred by the Council in setting up new systems.
- 2.10 The Working Group were of the view the Council should lobby for the introduction of this primary legislation and this lobbying would be more effective if the Council worked with other local authorities who have been similarly affected as well as the London Mayor and other key stakeholders.

## **Licensing and Registration**

- 2.11 The use of a selective licensing scheme pilot scheme was also considered by the Working Group. If the Council wished to develop this idea, to undertake a consultation to analyse and consult on a pilot scheme could be in the region of £60,000 to £70,000.
- 2.12 The Working Group were keen to look at good practice in other Councils in order to inform its recommendation in relation to this idea.
- 2.13 The London Borough of Hammersmith and Fulham has set up a scheme to improve standards in the private rented sector. Although this is not targeting short term holiday lettings, the Working Group were of the view that it could have beneficial impacts in areas where there is a prevalence of these lettings.
- 2.14 In July 2016, the London Borough of Hammersmith & Fulham launched a resident consultation to gauge opinion about introducing measures to improve conditions in the private rented sector. Based on the feedback, in December 2016 the Council introduced measures to:
- Set new standards for licensed rental properties to ensure that tenants are safe and problems to neighbours such as rubbish are better managed. From January 2017 onwards anyone applying for a licence must meet the new standards;
  - Require landlords and letting agents across the borough who let a property occupied by at least three people, who do not make up a single household and who share a kitchen, bathroom or toilet, to get a licence. This started in June 2017.
  - Require all landlords letting a property on named streets where anti-social behaviour has been a problem to get a licence.
- 2.15 A new landlords' rental charter to encourage landlords to commit to best practice in management, housing standards, living rent, and security of tenancies has also been introduced.
- 2.16 Although this is aimed at houses in multiple occupation and not short term holiday lettings, officers were of the view that that would be some short term lets within the designated area so the scheme could address some of the issues caused by these lettings such as anti-social behaviour and rubbish dumping.
- 2.17 For example, the licence holder must ensure that any anti-social behaviour committed by residents or their visitors, to anyone residing

in or visiting the property is dealt with appropriately and effectively, in particular by investigating complaints made by occupiers. Where the licence holder determines these complaints to be justified they are expected to take all reasonable steps to resolve the issue including if necessary by contacting the police or relevant authority.

- 2.18 The Council can prosecute for non-compliance with a licence condition. The Council is also in the early stages of putting in place the processes that will allow officers to use the civil penalties (fixed penalty notices) under the Housing and Planning Act. These penalties can go up to £30,000 for more severe issues.
- 2.19 The Council can serve a S80 notice under the Environmental Protection Act for noise nuisance on the person causing the nuisance and follow up with a fixed penalty notice or prosecution, although officers did not see this as a long term solution.



## THEME TWO - THE IMPACT ON NEIGHBOURS AND NEIGHBOURHOODS

The Working Group considered a number of issues contributed to the review by residents and resident associations including:

- Matters specifically relating to blocks of flats;
- Anti-social behaviour;
- Rubbish dumping; and
- Community protection notices.

In addition, Information was provided about Council enforcement activities as well as also contributed directly by residents with access to garden squares.

### **Recommendation Four**

- Produces information on its **website for private sector tenants and leaseholders** on which agencies to contact about the impact of short term holiday lettings (e.g. breaches of leasehold conditions and insurance matters).

### **Recommendation Five**

- Produces a landlord, leaseholder and tenant **guide to anti-social behaviour in private property lettings** including the various options for tackling this including Community Triggers, Community Protection Notices) and section 33 of the Environmental Protection Act (1990).

### **Recommendation Six**

- Reviews the delegated powers of officers with enforcement duties and responsibilities (environmental health, noise, nuisance).

### **Recommendation Seven**

- The Council considers how the Private Sector Housing Officer can work with **Garden Committees** and short term lettings agencies over complaints about misuse of such gardens.

2.19 Residents who contributed asked the Working Group to consider when developing its recommendations, the approach taken by other cities in Europe and America to curb short term holiday lettings. Residents understood that it was more complex to introduce these approaches in

London as it would be up to individual local authorities to develop their own policies. However, it was suggested that the Council could work with similarly affected London councils and also lobby the Mayor to achieve changes.

## **Matters relating to Blocks of Flats**

2.20 Key issues raised by residents are summarised below:

- Short term lettings being arranged (despite prohibitive clauses in leases and tenancy agreements) potentially invalidating block insurance for permanent occupants;
- Security concerns in blocks with a shared entrance;
- External key boxes being installed making other flats less secure;
- Damage to the communal areas amounting to more than 'fair wear and tear' leading to increased service charges;
- Permanent residents experiencing lost post; and
- The breach of lease conditions, for example guests bringing dogs.

2.21 The Working Group found evidence of one short term holiday lettings organisation that offered insurance although this included many exclusions for its contents insurance. The building insurance package specifically excluded cover of the common parts from the freeholder's property. Advice from a commercial insurance company commented that the short holiday letting company's host insurance in comparison to professional home insurance offered by other companies did not cover theft of cash, valuables, pets and damage to communal areas.

2.22 The issues raised in relation to property were, in the main, outside of the remit and powers of the Council as they were connected to private leases and tenancies. However, the Working Group was still keen for the Council to explore if it could assist in any way and it was felt that one option would be to 'sign post' residents to advice and support.

## **Anti-social Behaviour**

### Resident information

2.23 Residents gave examples of anti-social behaviour ranging from noise and disturbance late at night when guests were departing, to lettings to groups too large for the accommodation and large parties being arranged. Other issues were related to the business operations related to these lettings, for example frequent visits by laundry vans to collect dirty linen that were left with engines running during pick-ups.

2.24 The case studies below provide illustrative examples about some of the issues raised by residents.

### **Case Study 1**

A professionally organised party was attended by approximately 50 youths. The police were called to deal with the noise and nuisance but found it difficult to access the property without the owner's permission – it took until 4am to contact him. The party goers had then wanted to return to Luton but without taxis available dispersal had not been easy.

### **Case Study 2**

Another had been converted and advertised as sleeping up to 15 people. Large noisy groups used the rear garden and front steps for parties and there was smoking and drinking. Guests were unaware of noise restrictions.

### **Case Study 3**

Accommodation was being used as a hostel or guest house. Lots of different guests were staying for one or two days and apart from the issues of noise, there was smoking and drinking in the front garden as well as the opportunity for people to scale the dividing fence or wall to gain access to adjoining properties. Residents believed that the involvement of the local councillor had assisted with tackling these issues.

## Enforcement Information

2.25 The Noise and Nuisance Team receive approximately 17,000 complaints each year some relating to short term holiday lettings although it is not possible to quantify how many. The powers available to the Council in relation to noisy parties include issuing abatement notices followed by enforcement and removal of equipment. Approximately 100 abatement notices were served last year mostly from commercial premises some of which would be short term holiday lettings.

2.26 The powers and role of Noise and Nuisance Officers include:

- Serving a notice if they witness breaches in permitted noise levels;
- Writing to mortgage lenders to inform them that premises might not be adequately insured;

- Checking to see if properties are advertised on short term holiday lettings platforms in cases where several complaints have been made;
- Writing to mortgage companies linked to properties with persistent noise and nuisance issues arising from short term holiday lettings; and
- Writing to the insurance company in cases where fire safety certificates were not in place.

2.27 Officers confirmed that they have been called to frequent and significant noise and nuisance incidents. However, when this did occur the impact was very disruptive to neighbours and other residents and the police were often involved. It was extremely difficult to identify and contact the host.

#### **Case Study 4**

In a high profile case, a property that had attracted a range of complaints, turned out to be used for short term holiday lettings. The solution to the range of issues came through the tenacity of council officers tracking down the property owner who immediately took steps to stop the range of noise/rubbish and complaints of anti-social behaviour. The owner was a foreign businessman who had let the property in good faith but with subsequent subletting taking place it became a short let property. The owner was unaware until he received a noise abatement notice from the Council's Noise and Nuisance Team.

2.28 The police were invited to contribute to the review as the Council works with the police to combat anti-social behaviour and crime generally. Three types of issues had been linked to short term holiday lettings:

- Pay parties (which the police had no advance warning of) advertised through social media attracting large numbers of visitors to non-licensed premises which had been linked to crime;
- Sex working had been identified often via police intelligence. The police were keen for the public to report suspicions especially as there may be people trafficking issues;
- Use of the property for drug storage (and dealing) with the victims usually those renting out accommodation.

2.29 The police explained they are developing a memorandum of understanding between the police and one agency to improve

information sharing which improves proactive policing to tackle criminal activity linked to short term holiday lettings.

## **Rubbish Dumping**

### Resident information

2.30 Residents raised concerns about guests as well as service agencies dumping rubbish. This ranged from supermarket carrier bags with the remains of meals being left by lampposts or under trees to contractors dumping bags of rubbish as part of the process of cleaning properties after a departure and in preparation for new guests.

### Enforcement Information

2.31 The Council has a recording system for complaints about rubbish dumping and officers investigate proactively using the 'Report It' app. Although it is possible to analyse these complaints to identify 'hotspots' for rubbish dumping, it is seldom that identifying information can be found even though bags are opened.

2.32 The Council has recently embarked on the use of Section 33 Environmental Protection Act, to try and tackle landlords/owners/management agents, that knowingly allow tenants to present waste in an unacceptable manner. This can result in a £400 Fixed Penalty Notice and/or prosecution (maximum fine unlimited). As this process has only recently been introduced there have not yet been any test cases.

2.33 Some residents felt there had been improvements in those areas of the borough where service agencies had been required by the Council to take out commercial contracts.

## **Community Protection Notices**

2.34 At the Conference on 13 September, residents queried whether the Council had considered the use of Community Protection Notices (CPNs) as a remedy to the issues caused by short term lets.

2.35 CPNs are designed to stop a person aged 16 or over, a business or organisations committing anti-social behaviour which spoils the community's quality of life. The test requires that the behaviour has to:

- Have a detrimental effect on the quality of life of those in the locality;

- Be persistent or continuing in nature; and
  - Be unreasonable.
- 2.36 CPNs replaced powers in the Litter Clearing Notice and Street Litter Control Notice both of which were from the Environmental Protection Act 1990. They also replace the Graffiti Removal Notice introduced under the Anti-Social Behaviour Act 2003. Whilst the main issues CPNs were introduced for are graffiti, rubbish and noise they can be used to tackle any anti-social behaviour. Breach of a CPN is a criminal offence and a fixed penalty notice can be issued up to £100. If an individual fails to comply the courts could issue a fine up to £2500 for an individual or £20,000 for a business or organisation.
- 2.37 Officers considered the identified the issues caused by short term holiday lettings to be a mixture of noise, crime and disorder. It is possible that the Council's Noise and Nuisance team may be able to use CPNs in the some of the circumstances detailed. However, they did feel that this was unlikely and it would be more appropriate to use other remedies such as the Environmental Protection Act 1990 which in some cases provides greater sanctions such as fines. Criminal concerns such as trespass on neighbouring gardens, criminal damage and disorder are most appropriately responded to by the police who have more flexible and greater powers available to them then through CPNs.

#### The current use of CPNs in Kensington and Chelsea

- 2.38 CPNs can be issued by the police, the Council or a Registered Providers of Housing under delegated authority powers from Council. The police currently use CPNs, in conjunction with other measures, to tackle begging the borough. The Council's Contract and Enforcement officers are the only officers in the Council with delegated authority powers to issue CPNs. At the present time, Contracts and Enforcement officers can use CPNs to tackle anti-social behaviour caused by issues such as waste and litter on private land, street litter or staining, residential receptacle management, overgrown vegetation and busking.
- 2.39 Officers confirmed that the Council's Noise and Nuisance Team do not have delegated authority powers to issue CPNs. The Working Group were of the view that it was important for the Council to have a 'joined up approach to enforcement'. They recommended that there should be a review of delegated powers with a view to ensuring that officers in each of the different teams and departments are able to use all of the available legal powers to remedy reported instances of anti-social behaviour.

## Developing Good Practice

- 2.40 The Council has been involved in developing best practice through its involvement in the London Environment Directors' Network (LEDNET). Some work was carried out to improve arrangements for domestic waste collection especially for flats and residential accommodation with various types of tenancy across London with boroughs, landlords, tenants' associations collaborating to improve enforcement, and educating those involved in the requirements of relevant legislation. A toolkit was produced which summarised the requirements of the legislation. Waste from temporary accommodation could be classed as commercial waste and charged for accordingly. It was the responsibility of the landlord or the individual renting out property to ensure occupants understood how they should store or arrange for waste to be disposed.
- 2.41 'Keep Britain Tidy' has developed an action plan to address fly tipping. It is interested this year in working with local authorities to address the challenge of engaging with transient populations occupying temporary accommodation.

## **Garden Squares**

- 2.42 The borough has over a hundred garden squares and 46 of these raise an annual levy which is collected as part of the council tax due from residents whose properties form part of the garden. The Council raises the money levied annually by the garden committee for the maintenance of the garden square. The money is raised by means of a garden charge on the Council Tax of those people whose properties surround the square. The Council does not, therefore, have any responsibility or, indeed, jurisdiction in relation to the management of the garden.
- 2.43 Guests being given access to garden squares and contravening by-laws, for example by leaving litter and holding barbeques, were also raised as issues of concern as well as the security for properties backing onto these gardens.

2.44 The sub-committee of one of the borough's Gardens Committee gave a detailed submission which is summarised below as a case study.

#### **Case Study 5**

Residents offering short term lettings, are either giving a key or direct access to communal gardens. There were a number of issues ranging from rubbish dumping to invalidated insurance. Any increases in costs have to be covered by the Garden Levy which the Garden Committee pays to the Council. The Garden Committee Treasurer is issued with a list of properties but not the names of occupants. There are a number of ways to find this out, including searching the short term lettings platforms and checking the Electoral Register. The Garden Committee was keen to explore if the Council could provide more information to assist them identifying the owners so they could then address issues caused by these lettings.

2.45 The Working Group recommended that the Private Sector Housing Officer be promoted as a point of contact in these cases.

## **THEME THREE - THE IMPACT ON BUSINESSES AND THE LOCAL ECONOMY**

The Working Group considered:

- Information contributed by local hoteliers and also the British Hospitality Association highlighted an unlevel playing field. Representations were made that the short term holiday lettings model has changed and many hosts rather than renting out a spare room were running a business operation in direct competition with hotels.

The Working Group were of the view that the recommendations relating to the introduction of a mandatory registration and licensing scheme would best meet these concerns. A stronger monitoring and enforcement regime would enable the Council to enforce the 90-day limit.

### **Context**

2.46 Research from Colliers International, Hotelschool, The Hague and AirDNA published in November 2016 analysed the impact of short term holiday lettings on the hotel sector. The report states that at the same time, hotels saw year on year declines of -2 per cent in demand, -9 per cent in revenues and -5 per cent in occupancy. Over the same period, Airbnb saw 182 per cent growth in revenues, 126 per cent growth in occupancy and a 206 per cent increase in demand. The report authors anticipated that an increased number of complaints from residents about the impact and pressure from local authorities would impact on supply although not demand.

### **Information relating to the Borough**

2.47 The Working Group heard from business representatives from the local hoteliers and also the British Hospitality Association. These representatives were keen to confirm that they were not against competition as this could contribute to raising standards and innovation in the sector. An unlevel playing field had been created as the original ideal of hosts renting out a spare room had been replaced by highly commercialised business operations. Short term lettings hosts do not pay VAT or business rates, giving a price advantage, or have to comply with the same regulations as hotels, including health and safety and employers' liability insurance. Other issues raised included security as short term lettings hosts, unlike hotels, do not have a responsibility to

collect passport information from guests. A lack of affordable local accommodation resulted in hospitality sector workers experiencing rent inflation, increased travel costs and longer commutes.

- 2.48 The British Hospitality Association (BHA) welcomed the idea of home sharing but again felt that many short term lettings were commercially run operations. The absence of data on short term holiday lettings made it difficult to regulate the sector, including breaches of the 90-day rule. The BHA was in favour of the introduction of a registration system, independent of the platforms, and the registration fees being used to pay for the costs of enforcement activities.

## THEME FOUR - THE IMPACT ON HOUSING

The Working Group considered:

- Information contributed by landlords and managing agencies as well as lettings and estate agents. Many of their concerns, coincided with those expressed by residents and Residents Associations.

The Working Group were of the view that the recommendations in Theme Two would address many of the concerns raised.

The Working Group recommends that the Council:

### **Recommendation 8**

- Ensures all new **Council leasehold property leases** contain terms and conditions that prohibit short term holiday lettings, or any lettings for less than six months.

2.49 The main concerns of landlords and managing agencies coincided with many of the issues raised by resident representatives and these included:

- Damage to common parts leading to increased insurance costs due to repairs;
- Anti-social behaviour including use of illegal substances and smoking indoors;
- People loitering and keeping anti-social hours;
- The impact on security with the sharing of keys to front doors;
- Increased refuse levels and vermin;
- In emergency situations difficulties caused by not knowing who was in the block.

2.50 It was felt that these issues combined contributed to the erosion of the sense of community.

2.51 Even though in one case tenancy agreements stated that short term letting was prohibited, an intermediary company had targeted leaseholders offering to assist leaseholders to let out whole properties on a short term basis.

## **Case Study 6**

One successful repossession concerned a 2-bedroom flat which had been converted into 5 rooms to increase the available space for lettings. Water damage was obscured behind boarding put up to divide the property into smaller units and by the time the damage was discovered it was considerable. The full costs including legal fees, loss or rent and reinstating the flat to its original standard was £65,000.

- 2.52 Landlords are required to check the right of occupants to reside in the UK and notify the authorities. However, landlords could inadvertently allow a house in multiple Occupation (HMO). It was felt that the increased number of short term holiday lettings led in the longer term to the withdrawal of housing stock available for longer leases and to rent increases.
- 2.53 Lettings and estate agencies had similar issues to landlords. Again these included:
- Security issues;
  - Inappropriate and careless rubbish disposal;
  - Use of short term holiday lettings as 'pop up brothels' and film sets for adult films;
  - Late night parties breaching covenants of leases which disturbed neighbours;
  - Damage beyond wear and tear of communal areas showing disregard that short term holiday flats are other people's homes;
  - Loitering when waiting to collect keys and buzzing all other flats in the block for access;
  - Smoking within premises; and
  - The destabilising of residential blocks.
- 2.54 Lettings agencies did not oppose letting to holiday makers by individuals renting out their primary residence for short periods on condition perspective guests were vetted by the owner thoroughly to check they would look after their home and if the owners checked guests into the premises.

- 2.55 The registered providers with the largest amount of stock in London were contacted to find out if they had issues with short term holiday lettings and if so to find out how they were tackling them.
- 2.56 Landlords reported that they usually become aware of short term holiday lettings from their tenants and leaseholders who are experiencing problems of nuisance and anti-social behaviour. Short term holiday lettings are a relatively new phenomenon and leases and tenancy agreements do not always have clauses prohibiting them and so other terms of the agreement are used when enforcement action is being considered. The contributing registered providers reported that although there have been investigations into sub-letting and short term holiday lettings, these have been difficult to prove. Once the tenant becomes aware of the investigation, they move back into the property and so remedy the breach of tenancy.

#### **Case Study 7**

One registered provider has set up a Tenancy Fraud Team to tackle tenancy fraud including short term holiday lettings. The Team investigates allegations and this includes working with other agencies such as the police in order to prove or disprove the allegation. Information is contained on the website and referrals can be made by completing a form or telephoning a hotline.

#### **Case Study 8**

A registered provider reported that there have been a small number of short term holiday lettings. Recently there were reports of 2 leaseholders letting out properties and in one case adjacent tenants have made complaints to the registered provider about lack of consideration. In another case, the registered provider obtained a court order for breach of tenancy in a case where the tenant was letting out a room in her property whilst still living there.

#### **Case Study 9**

A registered provider reported one case in London relating to short term holiday lettings. The occupant in this case had left the property (i.e. not using it as his only or main home) and was allowing a friend to stay there (in the bedroom) and the living room had been converted in to a bedroom,

which was being advertised and offered out via a short term lettings agency. This was reported to the landlord by a neighbour (who was disturbed by knocking on her door thinking they were accessing the property being sub-let). The landlord managed to locate these adverts on the short term lettings platform and after speaking directly with the agency, were able to remove them. The landlord did have other compelling evidence in this matter that the tenant was not occupying the property as his only or main home, but this evidence no doubt played its part in successfully gaining an outright possession order at court and then subsequently being able to recover the property.

### **The Council's Own Stock**

2.57 The Working Group were of the view that the Council should ensure that its own leases should contain terms and conditions prohibiting short term holiday lettings or any lettings for less than 6 months. The recommended that the review of leases include relevant clauses.

## THEME FIVE - SHORT TERM LETTINGS AGENCIES

The Working Group was keen to hear from all parties and so invited short term holiday lettings agencies to contribute to the review. The Working Group heard evidence of good practice that is being promoted by some agencies as well as about the formation of the UK Short Term Accommodation Association.

The Working Group recommends that the Council:

### **Recommendation Nine**

- The Council lobbies companies to improve their operations in relation to enforcement. For example:
  - Hosts who list properties on lettings platforms should be asked to provide proof of their right so to do, such as a copy of the relevant lease or tenancy agreement clause;
  - Short term holiday letting hosts include in their signed agreement a statement that they have either the right themselves or the written agreement of their landlord (and provide it) to rent a room in their property;
  - All hosts additionally be required to sign an agreement that such use does not and will not contravene any buildings insurance, any Council regulations or any local and resident byelaws; and take out commercial waste contracts.

2.58 The individual agencies described their operations and the common themes are noted below:

- A local presence;
- Hosts who understood how the agency operated and understood the importance of good neighbour relationships;
- The 'vetting' of guests and deposits taken as part of the booking process;
- Welcome letters and welcome manuals to give information about the property, the local area and local services including rubbish collection;
- Good arrangements for the disposal of rubbish including taking out commercial waste contracts;
- Parties were either discouraged or prohibited altogether at the booking stage; and

- Recommending local shops and restaurants to guests as a way of contributing to the neighbourhood.

2.59 Views of the agencies in relation to registration were mixed. However, it was felt that such a scheme could be costly and that those landlords most likely to breach the 90-day limit would be the least likely to register. The onus should be on hosts and not the agencies to ensure compliance with the 90-day rule. It was also suggested that the best way to identify landlords with multiple properties would be to analyse data on the Council Tax Register.

2.60 A number of short term holiday lettings agencies have formed the UK Short Term Accommodation Association and the list of members and the Code of Conduct is on their website ([www.ukstaa.org](http://www.ukstaa.org)). The Working group heard that the Association was:

- Being proactive and this included providing guidance on legal and regulatory standards;
- Aware that neighbours had concerns about short term holiday lettings within blocks and seeking to work with building managers on these issues;
- Drafting a code of conduct for short term holiday lettings landlords; and
- Supportive of efforts to disseminate good practice amongst hosts.

**Councillor Malcolm Spalding**

**Chairman of the Scrutiny Working Group**

## **Addendum to the Short Term Holiday Lettings Report, Meeting with Airbnb and the Scrutiny Working Group**

This meeting was arranged after a representative from Airbnb attended the Public Realm Scrutiny Meeting on 22 November 2017. A representative attended from Airbnb and explained that that her role was newly created and part of it was to liaise with local authorities.

Airbnb were keen to emphasise the economic benefits of short term holiday lettings for individual hosts, local businesses and the London economy as a whole.

It was confirmed that Airbnb are keen for hosts to be responsible and this is why the company has taken action to enforce the 90-day limit. There are automated limits on the platform that prevent hosts from letting whole properties in excess of 90 days by blocking the account for the remainder of the calendar year unless the host can confirm that they have the relevant permission from the Council to extend the period. This system has been in operation since 1 January 2017 and the proportion of entire home listings booked for 90 days or more has fallen by two thirds. Airbnb stated that they were the only short term holiday lettings company to operate such a system and were urging other operators to follow their lead. Airbnb would be willing to share information about any breaches with the Council. The Working Group recognised the efforts being made by Airbnb but were of the view that hosts could 'switch' platforms to circumvent the 90-day limit.

It was also confirmed that Airbnb would investigate any complaints made to them about noise and nuisance. There is a 'three strikes rule' in relation to consistent complaints and also direct police liaison in the case of any criminal behaviour. In addition to this, Airbnb have developed a *Responsible Neighbour Guide* as an education piece for hosts which for example, includes information about rubbish collection arrangements and neighbourhood sensitivities and noise restrictions. Although the Working Group recognised the efforts being made by Airbnb and also that the Council was keen to use all of the powers at its disposal, it was felt that the churn of visitors presented a particular challenge in taking effective enforcement action.

The action points agreed by Airbnb at the meeting are summarised below:

- Report back on whether the company would develop an information sharing agreement with the Council for all lettings and not just those in excess of 90 days;
- In cases of noise nuisance, share the details of the property owner with the Council;

- To confirm the relationships (if any) between Airbnb and service agencies in the borough; and
- Forward additional information to relevant Council officers about its systems for enforcing the 90-day limit and also the tool for reporting concerns about listings in their community.

## **Terms of Reference**

The objectives of the scrutiny review are set out below.

- To establish the extent of short term letting in the borough;
- To review the powers, the Council has in relation to this practice (national and local policies and the 90 day. rule);
- To establish the impact on the numbers of long term residential units in the borough;
- To explore impact on quality of life of residents including noise nuisance and rubbish dumping;
- To establish the impact on the Council's finances for example through the loss of business rates and increased service demands; and
- To consider the impact on the local economy for example the hotel industry.

## **Out of Scope**

- Properties where rooms are let out on a 'bed and breakfast' basis with the owner in occupation, for not more than 90 days a year.

## **Methodology**

This cross-party Working Group was formed by the Public Realm and Housing and Property Scrutiny Committees in response to concerns expressed by residents about the impact of short term holiday lettings on their quality of life and neighbourhoods.

Members of the Working Group are listed below:

Cllr Spalding (Chairman)  
Cllr Blakeman  
Cllr Condon Simmonds  
Cllr Press

A press release was issued summarising the Terms of Reference and the themes and topics to be covered. All members of the Council were invited to forward any examples from their casework to inform the review.

The Working Group developed a work programme based on key lines of enquiry setting out the topics the members wished to explore in greater depth. These also included likely contributors to the review and key sources of information. The key topics were:

- The general overview
- The impact on neighbours and neighbourhoods
- The impact on the housing market
- The commercial impact

The final meeting was a public meeting on 13 September at the Town Hall with a Panel discussion on the interim findings. The discussion was used to update and revise the interim findings report so that a final report with clear recommendations for the Executive.

## Appendix Three

- 1.1 The statistics in Section One were compiled using Inside Airbnb data downloaded from the website (<http://insideairbnb.com/>) on 24 July 2017. The aim of this analysis is to provide an estimate of the total number of properties shown on Airbnb, an estimate of the number of landlords and the number of properties/apartments they use, an estimate of the total number of days each property is available for in the year, comparisons of this data with other boroughs in London. Maps will be produced separately.
- 1.2 Disclaimer for data contained in this analysis (Inside Airbnb, 2017):
- 1.3 Inside Airbnb is not associated with or endorsed by Airbnb or any of Airbnb's competitors. The data utilises public information compiled from the Airbnb web-site including the availability calendar for 365 days in the future, and the reviews for each listing. Data is verified, cleansed, analysed and aggregated.
- 1.4 Inside Airbnb claims "fair use" of any information compiled in producing a non-commercial derivation to allow public analysis, discussion and community benefit. Accuracy of the information compiled from the Airbnb site is not the responsibility of "Inside Airbnb".
- 1.5 Location information for listings are anonymised by Airbnb. In practice, this means the location for a listing on the map, or in the data will be from 0-450 feet (150 metres) of the actual address. Listings in the same building are anonymised by Airbnb individually, and therefore may appear "scattered" in the area surrounding the actual address.
- 1.6 Listings can be deleted in the Airbnb platform. The data presented here is a snapshot of listings available at a defined time.
- 1.7 The Airbnb calendar for a listing does not differentiate between a booked night vs an unavailable night, therefore these bookings have been counted as "unavailable". This serves to understate the Availability metric because popular listings will be "booked" rather than being "blacked out" by a host. Some hosts might not keep their calendar updated, or have it highly available even though they live in the entire home/apartment.
- 1.8 Number of nights booked or available per year for the high availability and frequently rented metrics and filters were generally aligned with a city's short-term rental laws designed to protect residential housing.

## **Short Term Holiday Lettings Law in Other Countries and Cities**

### **1. Background Information**

- 1.1 This appendix describes the trend from countries across Europe and also worldwide seeking to legislate to restrict and to regulate the use of short term lettings websites.

### **2. Which Countries Are Legislating?**

- 2.1 Within Europe there is a distinct line between countries who are choosing to legislate against short term lets and those who are not. Many countries in the old Eastern Bloc have no legislation limiting the use of short term lets, with two notable exceptions, these are Estonia and Croatia. In addition, none of the Nordic countries have chosen to legislate except Iceland, however Norway are currently monitoring the usage of short term lettings to see if legislation is required.
- 2.2 Countries who are currently legislating are: Austria, Croatia, Cyprus, Estonia, France, Germany, Greece, Iceland, Ireland, Italy, Malta, the Netherlands, Portugal, Spain, Switzerland and the United Kingdom.
- 2.3 This is a total of 16 out of 50 European countries are choosing to legislate against short term lettings, a total of 32%, roughly a third.
- 2.4 This 32% of countries covers the 5 countries which are the most popular European tourist destinations: France, Spain, Italy, the UK and Germany.
- 2.5 Legislating against short term holiday lets has also been popular in various American states including: Arizona, California, Colorado, Georgia, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, Wisconsin. 29 out of the 50 (58%) of the American states have chosen to legislate against Airbnb, although the regulations vary dramatically from state to state.
- 2.6 In Asia and South America the desire to legislate against short term lets has been minimal with only Japan taking any action to limit their spread.

- 2.7 This would suggest that short term lettings company are mainly restricted to countries which have high interest tourist hotspots and these sites have been particularly prevalent in English speaking countries, where some of the largest short term letting companies operate and the countries that these English speaking tourists visit. It also seems likely that this expansion will spread to other countries who have issues with a high intensity tourism and local residents, as in the case of Tokyo.

### **3. Types of Legislation and Means of Enforcement**

- 3.1 Of these 16 European countries, two methods have emerged as the most prominent method of legislating. These are requiring the person letting the property out to either register on a special database or they have specifically implemented tax regulations for short term lets. Both of these methods are used by 10 of the 16 countries (63%) making them both popular methods and 6 of the countries (38%) have legislated that both registering on a database and paying a tax on rental income is required. The countries requiring both methods are: the Netherlands, Greece, Switzerland, France, Austria and Estonia.
- 3.2 Of those countries who are requiring those letting their properties to pay tax, there is a large discrepancy on the scale of taxation demanded. This ranges from standard income tax rates, to specific taxes designed purely for short term lets. In addition, some countries specify tax only needs to be paid if the room is rented out for profit (Switzerland) and other systems in other countries allow for the cost of running the establishment and then tax the remainder (as in Estonia, where the first 20% of the income is not taxed and classed as running costs, with the remaining 80% classed as profit and being taxed).
- 3.3 The next most popular method of legislating against short term lets is to specify limits on when a property can be let out, or under what conditions. 5 of the 16 countries (31%) who have specific short term lettings legislation specified a limit on how many days a property could be let out for. This range differed from country to country, however the average and mode was a 90-day limit. This 90-day limit is currently in use in the UK, Iceland and Greece. The two other countries which limit the number of days are France, with the most generous allowance of 120 days and the Netherlands, with an allowance of 60 days. This is of particular note when considering that France is the most visited European tourist destination.

- 3.4 Other limits in place also referred to the percentage of a property that could be rented out. Germany specifies that only a maximum of 50% of a property is permitted to be let out, thus essentially prohibiting buying out apartments or homes, purely to rent out on the short term lettings market. Switzerland does not have any specific legislation for short term lettings, so long as the property is not let out in order to make a profit, otherwise they must register and pay tax. Finally, Iceland puts limitations on short term lets by a specific limit on what individuals may earn within a year. This limit of 1,000,000 ISK is roughly equivalent to £7130. This in conjunction with their day limit of 90 days per year, if fully used, ensures rooms cannot be let out for more than £80 per night. Whilst this makes the system very profitable for single bedroom properties in the city centre, which equate to £45 per night, they become increasingly unprofitable the larger the property or the more rural it becomes, particularly if the person letting their property does not use the day and pricing limit to the maximum
- 3.5 Another specification which an increasing number of countries are legislating for is for short term let properties to comply with varying sets of health and safety legislation. 5 of the countries (31%) who have specific legislation require these properties to comply with health and safety laws. Most of these are relatively standard conditions, relating to fire safety, however in Cyprus the legislation is very specific and requires all properties with a pool to have a designated life guard. Again legislation such as this severely limits the profitability of such schemes, or makes them untenable to the majority of users.
- 3.6 The main method of enforcement for these pieces of legislation is the taxation of private individuals who are renting out their homes. In 14 of the countries (88%) with specific legislation for short term let enforcement is through prosecuting and fining the individual who lets out the property, suggesting the issue of knowing the law and compliance with it is a personal responsibility. In 2 of the 16 countries (12%, Spain and Portugal) this responsibility is placed on the company who hosts those letting out the property. Finally, in Estonia, not only can the person letting the property be fined for not complying with the law, but so can the person staying in the property. In Estonia, it is a legal requirement for any foreign visitor to register with the police within 48 hours of arrival, in recognised hotels this process is automatically completed by the hotelier, however in cases of short term lets the onus is on the visitor, which can cause visiting tourists to be fined. With regards to the amount individuals can be fined this greatly varies in terms of a maximum permitted figure between €2,000 and €100,000 depending on the country and the scale of the infraction. The lowest

penalty comes from Austria and the highest figure from Germany, showing a huge amount of discrepancy in the law, even between neighbouring countries.

#### **4. Nonspecific Means of Regulating and Enforcing Short Term Lets Law Compliance**

- 4.1 Some countries however, have chosen to go through alternative means to control short term lets, rather than specifically legislating against them. One such country is Ireland, who is using existing planning law to control the proliferation of short term lets within the city. This law would come into place if the property was used exclusively for short term lets, thus permitting those who let out their property when on holiday, or letting out a spare room continue. Ireland however is currently running working groups to see if it is able to further, specifically legislate against short term lets. The matter in Ireland is particularly complicated as Dublin is home to a 40,000sqf international Airbnb headquarters. The business alone, without counting the profits made by individuals letting out their home, is €74,000,000. Of the 6,000 hosts in Ireland the average household income from Airbnb was €2,700.
- 4.2 Malta again is limiting Airbnb, but not through new specific legislation. Instead the Maltese government is using existing licensing laws. Currently any property housing guests who are not friends and relatives requires a license from the Malta Tourism Authority. Whilst traditionally this has only been applicable to hotels and traditional B&Bs, new short term lets are also required to comply with this law. This license permits the local authority to inspect the premises and require various health and safety regulations which regular hotels must comply with. In addition, it makes sure that money made from letting out a property is also taxed at a standard VAT rate.
- 4.3 Croatia is the final country which regulates Airbnb using non-specific legislation. The use of short term lets premises defines you as a "private renter" and thus makes you a small business owner. As a small business owner those letting out their property are then required to comply with a specific code of conduct and require you to register with the local authority to ensure this code of conduct is met. Once on this register, properties become subject to regular inspections where they are rated using a star system, they are required to meet minimum sizes, minimum bathroom numbers and they are required to pay tax. As such, whilst there are no specific laws to legislate against short term lettings, short term lets in Croatia are expected to comply with similar standards to a traditional hotel.

## **5. Countries Who Are Encouraging Short Term Lettings**

- 5.1 Whilst many countries, particularly key European tourist destination countries, who have worldwide iconic monuments, have been trying to limit the proliferation of short term lettings there are some countries where the boost in tourism is being encouraged or permitted as the short term lettings industry has become self-regulated.
- 5.2 This is the case in Budapest in Hungary and may demonstrate why many Eastern Bloc nations have not chosen to legislate against short term lets. In an article focused on this trend in Budapest it appears that due to a large amount of housing in Budapest and a comparatively low population, there is not the same pressures on housing stock as in other major European capital cities and so there is plenty of surplus which can be used for short term lettings. In addition, because of this surplus in short term lettings facilities, the market has reached a saturation point where there are more apartments than are needed by the incoming tourist population and thus prices need to be kept low to compete for what business there is. As these profits are small, they are not operated as big businesses and so have become self-regulating and the government has not needed to step in to legislate against.
- 5.3 As in the case of Budapest many of the Eastern Bloc countries are trying to build up their image as cultural, affordable weekend breaks and so the proliferation of short term lettings companies assists with this as not only do short term lettings help nationals to earn more money and increase the standard of living, but by making the country more attractive to tourists because of the low cost to stay there means they will increase numbers and also increase the amount of money that those tourists will be able to spend on other products whilst out there, all assisting the economy.

## **6. Enforcement of Short Term Lettings Legislation**

- 6.1 Whilst much has been done in recent years to legislate there is less information regarding the results of enforcement in this matter.
- 6.2 One notable exception however, is Spain, who rather than placing the onus on the individual letting out their property, they instead have legislated so that the websites who host these individuals are at fault. If a website hosts individuals who are not on the local authority's register, then it is the website who are fined. Spain in particular has levied very large fines, on three separate occasions, twice for €30,000 and one for

€600,000 and has threatened that further infractions will result in the maximum fine of €600,000 being levied again.

- 6.3 In France in the beginning of 2016 raids were carried out in the popular 1<sup>st</sup> and 6<sup>th</sup> arrondissements for those who were not officially registered. Whilst this shows some level of attempting to enforce the legislation against unregistered short term lets, there are no statistics to indicate these raids were followed up with any form of prosecution or fines.
- 6.4 In Dublin a landmark case involving an apartment in Temple Bar suggests enforcement may be possible. The owner was told by Dublin City Council that he needed to apply for a change of use of the planning permission to continue using the property for short term lets. When the owner attempted to appeal this decision with the An Bord Pleanála, the independent planning appeals board, the board found in favour of the Council and required the owner to apply for a change of use. However, their statistics record that since this ruling no submissions were received to change the use of a property from residential to short term lets usage, in the entire of 2016. The Council also refused to comment on how many properties were under investigation for a possible breach of planning law. This seems to be the trend with many countries and local authorities being unwilling to release such data.
- 6.5 The most popular method of enforcement would appear to be making unregulated short term lets financially unviable through on the spot fines. 6 of the 16 (38%) European countries who have legislated do so via on the spot fines for infractions of the legislation.

## DOCUMENTATION

Department for Communities and Local Government, *Promoting the Sharing Economy in London, Policy on short-term use of residential property in London*, February 2015

Council Policy CF9

*The Digital Economy* House of Commons Business, Innovation and Skills Committee

Colliers International, Hotelschool, The Hague and AirDNA published in November 2016  
*Airbnb – Impact and Outlook for London*

*Guide to Improving Waste Management in the Domestic Rented Sector*, LEDNET

*Reaching the Tipping Point: Keep Britain Tidy's Action Plan for Fly Tipping*

*The Rental Revolution: What the Sharing Economy is doing to the PRS?* Tom Simcock and Dr David Smith Residential Landlords Association May 2016

The Kensington Society Newsletter Autumn 2016

*Ignite 2017 and Platform Economies and urban planning: Airbnb and deregulated regulation in London* The London School of Economics