

Position Paper:

Ensuring Tourism Accommodation Is Safe and Legal

4 December 2018

1. Introduction

The Government, VisitEngland and the tourism industry have long worked together to help ensure that accommodation provided to tourists in Britain is safe and complies with all necessary legislation. Initiatives to achieve this have included the national accommodation grading scheme, the provision and dissemination of the Pink Book on Tourism Accommodation legislation and the development various industry standards and guidance documents on how to comply with legislation such as the Fire Safety Order.

Such initiatives, supported by enforcement bodies inspection regimes has enabled the UK tourism industry to provide a wide range of high quality tourism accommodation without the need to introduce statutory registration scheme.

However, the rapid development of the Sharing Economy has resulted in a substantial increase in the number of new tourism accommodation providers, many of which are unaware of the legislation designed to ensure the safety of tourism accommodation and are outside the inspection regimes of enforcement bodies.

Local Councils, enforcement bodies and other tourism businesses have all expressed considerable concerns regarding non-compliance by these new businesses. These concerns have culminated in a recent inquiry on the Sharing Economy by the All Party Parliamentary Group for Tourism. The report from this inquiry, published in July 2018, recommended that the Government launch a consultation on introducing a statutory registration scheme for all tourism accommodation. The purpose of this scheme would be to ensure that local authorities and other regulatory and enforcement bodies are aware of all tourism accommodation properties in their jurisdiction so that they are able to undertake the inspection programmes necessary to ensure regulatory compliance.

This paper outlines the Tourism Alliance's position on whether a statutory registration scheme should be introduced to ensure that all properties offered for tourism accommodation are fit for purpose and comply with all relevant legislation.

2. Background

The Sharing Economy refers to economic activity facilitated by online digital platforms that enables people or businesses to share, sell or rent property, resources, time, or skills. A function of the Sharing Economy is that it brings together suppliers and customers through a common platform. The companies that provide sharing economy platforms seek to provide a self-regulating online community by registering both buyers and sellers and allowing both parties to comment on the performance of the other. This self-regulation model aims to create an environment of trust within the community whereby good performance is rewarded and poor performance can mean an individual is removed from the community.

This new business model is significantly changing some sectors of the UK economy including the provision of tourism accommodation, with accommodation purchased through sharing economy platforms being one of the fastest growing areas of the UK tourism industry. In their September 2016 review of the UK hotel industry, PWC estimated that sharing economy businesses in the accommodation sector generate over £3bn in sales and that this could rise to nearly £30bn by 2025.

The market leader in the tourism accommodation sector is Airbnb which, from starting UK operations in 2012, has grown to the position where it now comprises 160,000 properties that provide eight million bed nights, generate £502m in economic activity and supports 11,629 Jobs.

While the tourism accommodation marketed on sharing economy platforms initially comprised people letting-out a spare room in their house, it is apparent that the sector is evolving quickly. An analysis of the 49,000 properties available in London through Airbnb shows that over 50% are properties where the owner lives elsewhere, and that over 40% of the properties are listed by someone who has more than one property available for rent.

This strongly suggests that sharing economy platforms are increasingly being used by people to develop tourism accommodation businesses, rather than by people wanting to supplement their income.

The increasing use of sharing economy platforms by people developing tourism accommodation businesses has, in turn, resulted in concerns being expressed by councils, regulatory authorities and the tourism sector that many of these operators are not aware of their responsibilities to consumers, are not complying with fire and health and safety legislation and are not paying the appropriate level of taxation. These are things not easily identified by consumers and therefore cannot be policed through on-line user review systems.

The concerns are being exacerbated by sharing platform companies being unwilling to inform operators of their legal responsibilities or provide data on their customers to regulatory authorities, meaning that these properties operate outside official inspection and enforcement regimes.

3. Statutory Registration

In their report on the Sharing Economy, the All Party Parliamentary Group for Tourism recommended that, to resolve this issue, the Government should launch a consultation on

introducing a statutory registration scheme so that regulatory authorities are able to identify the location of all tourism accommodation properties and incorporate them into inspection schemes aimed at ensuring compliance and improving consumer safety.

Statutory registration of tourism accommodation is common in many other tourism destinations. For example, in Northern Ireland, the Tourism (Northern Ireland) Order 1992 prohibits anyone from providing or offering to provide tourist accommodation unless they have a valid certificate issued by Tourism Northern Ireland.

The introduction of the Statutory Registration Scheme in Northern Ireland has been credited with improving tourism accommodation quality and with the ability of the Tourism Northern Ireland to work with the tourism industry to develop Northern Ireland as a destination.

The legislation required to introduce a statutory registration scheme for tourism accommodation in the UK already exists and does not require the introduction of new regulations. The Development of Tourism Act 1969 contains provisions that enable the Government, through an Order in Council, to make provision for the registration of any class of tourism accommodation by the Tourism Boards. The provisions of this Act enable the Boards to:

- Maintain a register of accommodation providers
- Specify the information needed from accommodation providers for registration
- Require the display of proof of registration
- Enter the property for the purposes of inspection
- Provide exemptions from registration
- Charge for registration

These powers could be used by the British Tourist Authority or delegated to local councils to implement local schemes under the BTA's guidance.

4. Tourism Alliance Position

The Tourism Alliance believes that all operators providing tourism accommodation should:

- provide customers with accommodation that is safe
- comply with all regulatory requirements in accordance with the principle of proportionality
- pay all due taxes

To achieve this, there needs to be a mechanism (or mechanisms) whereby tourism accommodation operators are made aware of their statutory responsibilities regarding customer safety, and Local Authorities and other regulatory bodies are able to identify the location of tourism accommodation businesses so that they can undertake the necessary compliance inspections. Any proposed mechanisms also need to be proportionate and low-cost so that regulatory burden is minimised and business development is not unduly constrained.

It would seem possible to introduce a statutory registration scheme that would meet these criteria using the powers in the Development of Tourism Act. Such a scheme could mirror the statutory scheme under the Food Safety Act, whereby all businesses that sell food and drink must register with their local council. This simple low-cost registration process can be completed online and gives an operator implied consent, meaning that the process of

registering automatically gives the business the necessary permission to undertake the activity.

However, we believe that there are could be other options. For example, in Demark, Airbnb has entered into an agreement with the Government to automatically identify tourism accommodation operators to the Danish tax authorities, while the German Government is working with sharing economy platforms to gain the information they require. In the UK, HMRC is currently considering the introduction of legislation that that would make the operation of some businesses conditional on operators providing their tax registration details.

Therefore, as there are a number of possible routes for ensuring that all tourism accommodation operators comply with regulatory requirements, the Tourism Alliance supports the All Party Parliamentary Group for Tourism's recommendation that the Government undertake a consultation on this issue in order to determine the most appropriate mechanism for ensuring the safety of consumers.