



Safe and Legal Accommodation, the Full Story

The Problem

Prior to the demise of the Regional Development Agencies and with them most Regional Tourist Boards in 2012, accommodation providers had to have a National Tourist Board grading in order to advertise the property on the Tourist Board sites, at that time a leading source for bookings. This had the advantage of ensuring that the quality for the consumer was clear, but had a hidden advantage too, in that to be graded, you needed to have Public Liability Insurance and basic safety testing, fire, gas electric in place.

Since the demise of the RDAs, there has been a significant increase in companies that provide online platforms allowing people to list products and service such as tourism accommodation and car rental without there being any checks as to whether these products comply with legislation designed to protect consumer safety. These platforms then hide behind T&Cs that state that the company operating the platform has no responsibility for the product being safe, legal or even exists.

We believe this is to the detriment of the consumers, most of whom would assume that, by booking through a high-profile platform that they are afforded the same level of protection as if they had booked the accommodation or rental through a Tour Operator or Travel Agent.

Our primary ambition has to be as an industry to ensure the safety of the paying guest whilst also ensuring a level playing field for all legitimate operators.

The laws are clear and are published and updated by VisitEngland in the highly regarded Pink Book. This is a link to those regulations: <https://www.visitbritain.org/visitengland-launches-new-edition-pink-book>

What have we done about this?

The accommodation sector, along with other industries, successfully lobbied the Tourism All-Party Parliamentary Group to undertake an inquiry into the impact of what is rather misleadingly known as the 'sharing economy'.

The resultant report, called the **Inquiry into the Sharing Economy**, contained evidence from a range of organisations including, **UKHospitality, ABTA, the British Beer and Pub Association The B&B Association** and **PASC UK**. The obvious players gave evidence in favour of the 'Sharing Economy' and all are listed at the back of the APPG report.

The APPG was ably Chaired by Gordon Marsden MP, the highly experienced and respected MP for Blackpool. Evidence was gathered and in July 2018 the APPG Published its report.

A full copy of the report can be found here: <http://bit.ly/2LgPu7Z>

The summary findings were as follows:

- *Having considered the evidence both from the sharing economy and from the rest of the tourism industry, the APPG for Tourism recommends that the Culture Secretary launch a consultation on using his powers under the Development of Tourism Act 1969 to establish a low-cost statutory registration scheme for tourism accommodation businesses. Such a scheme could be devolved to councils and would help resolve the main issues identified by this Inquiry. Namely, it would:*
 - *Help ensure that all businesses complied with regulations*
 - *Provide enforcement officers with a database of tourism accommodation properties so that they could target their resources to those properties they deem to be the highest risk*
 - *Provide councils with greater ability to manage tourism in their area*
 - *Provide HMRC with a means by which to ensure that all businesses pay the appropriate level of taxation.*
- *That the Government provide Local Authorities with powers to set rules regarding the use of residential properties for Tourism Accommodation so that local solutions can be developed that balance the benefits generated by sharing economy accommodation with needs of local residents.*

This was a major breakthrough and we really believed that progress would not be made into ensuring that short term rental accommodation would become safer as a result.

However, over a year later we are still to have the Roundtable Meeting with DCMS to discuss how we can ensure both a 'Safe and Legal' sector as well as a level playing field for businesses.

What does this really mean?

Compliance costs money. To be 'Safe and Legal' the property owner needs to spend money. Money testing fire, gas and electrical equipment, this is the Law in the UK. Fully compliant businesses will have other bills too, water testing, chimneys, pool testing and hot tubs to name a few. Legitimate businesses will also go a step further and pay for Public Liability

Insurance, which readers may be surprised to find is not currently a legal requirement. This is recommended to be between £5m and £10m worth of cover.

What is the level of compliance?

To list on the vast majority of internet sites, including the market leaders, such as AirBnB, Home Away and Holiday Lettings, you do not need to show any compliance with fire or health and safety legislation. In fact, on AirBnB, you can state that your property does not have a fire or smoke alarm and the accommodation will still be listed. This is in clear breach of the Law.

Here are some examples:

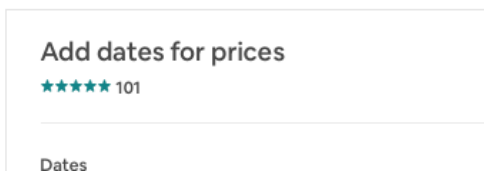
Guardian article 14-7-2018 AirBnB safety issues.

<http://bit.ly/2PgSrtr>

Times article 10-8-2019 AirBnB safety issues.

<http://bit.ly/2MLfGYY>

This is compounded by AirBnB allowing properties to advertise that break the most basic of Laws. Fire safety. Here is a screenshot from the AirBnB site. This property is in East Devon and has had at least 101 bookings.



The property has a wood burning stove.



The property has no smoke detection or Co2 detection and AirBnB know this, displays this fact and allows the property to advertise. There are thousands of such listings displaying these logos. This is against the Law.

Amenities

Free parking on premises

Essentials

Kitchen

Indoor fireplace

Smoke-detector

Carbon-monoxide-detector

The host hasn't reported smoke or carbon monoxide detectors on the property.

This has now reached epidemic proportions. A report from the insurance company PIKL found that the vast majority of the 200,000 properties on AirBnB were operating using their Domestic Insurance which in the event of a claim, would have been rejected due to the property being let to paying guests. This also invalidates the insurance for the homeowners property.

The so called 'Sharing Economy' is sleepwalking towards a disaster where guests will die due to non-compliant properties. A few examples.

Canada

USA Today. 9-7-2019. Carbon Monoxide detectors save 46 lives in hotel.

<http://bit.ly/30HeDwd>

Mexico:

USA Today. 11-12-2018. Deaths in AirBnB's.

<http://bit.ly/2ZoM7mA>

USA

Huffington Post. 9-11-2015. AirBnB Response to deaths in one of their properties

<http://bit.ly/349aRxM>

Chile

Bloomberg. 23-5-2019. Six die in an AirBnB.

<https://bloom.bg/2LktNRA>

Brighton

BBC. 30-11-2016. AirBnB denies liability for serious injuries.

<https://bbc.in/2zv2puY>

AirBnB Hell:

AirBnB Hell. Details of AirBnB deaths. (How many companies have a website dedicated to deaths in their properties?)

<http://bit.ly/2zvS2Ha>

It is entirely possible that a young group of people will book a party house in Brighton, Bath or Edinburgh, have a fire break out due to a poorly extinguished cigarette and, as there is no alarm system, suffer injuries or death as a result. All tourism accommodation properties should comply with fire and health and safety legislation before they are offered to the public in the same way as a car is not allowed on the road without an MOT. All long-term residential lets have a full list of H&S requirements and the scheme is very effectively policed.

What are the next Steps?

We have been collectively pressuring the Government and in particular the various Tourism Ministers and officials at DCMS to follow up on the APPG's recommendations by having a Roundtable Meeting to discuss how we can address this problem, and if needs be, move to

a Registration Scheme to ensure regulatory compliance and guest safety. It would be a very difficult media call for the Tourism Minister to have to explain why a major incident had occurred in a short term let and the Government had not been responding to Industry calls for action to ensure widespread compliance, especially when the industry has been demanding this for some considerable time.

Who are the Groups calling for the Government to take action on this? The 'Safe and Legal Group' now consists of all the major tourism organisations, from national tourism associations such as the Tourism Alliance, UKHospitality, to ABTA and UKInbound to specialist sector associations representing self-catering and bed and breakfast businesses plus many other concerned organisations. This list represents the vast majority of legal and compliant accommodation businesses in the UK, with more joining each week.

ABTA

AITO

ASAP (Association of Serviced Apartment Providers)

ASSC (Association of Scottish Self Caterers)

Awaze

BASCA (Bath Area Self-Catering Association)

B and B Association

British Destinations

BVLRA (British Vehicle Rental and Leasing)

Association

Bruern Holiday Cottages

Cottageline

Destination Plymouth

East Devon Excellence

English Riviera

Go New Forest

HHA (Holiday Home Association)

PASC (Professional Association of Self-Caterers)

Premier Cottages

Scottish Tourism Alliance

SW Tourism Alliance

TMI (Tourism Management Institute)

Tourism Alliance

UK Hospitality

UK Inbound

Unique Home Stays

Visit Cornwall

Visit Devon

Visit Wiltshire

WASCO (Wales Association of self-Caterers)

The 'Safe & Legal Group' has been calling on the Government and DCMS to have that Roundtable Meeting for over a year now, it has been much promised but never delivered, so that we can move quickly as other countries are doing, to ensure that the 'Sharing Economy' that has so clearly got completely out of control, can be brought back in line and become a positive contributor not a negative one. This has to be a national priority, so that safe and legal short let accommodation (which is what the guest is expecting) becomes the norm, not the exception.

This Paper only refers to the 'Safe and Legal' aspect of the Sharing Economy. There are other key impacts that should be considered in a wider context, but these are outside the remit of this report. These are:

- Impact on Communities when overrun with Short Term lets
- Impact on pricing of property and rental accommodation for locals and workers
- Over Tourism
- Loss of Tax Revenue to HMRC
- Impact on legitimate businesses being overrun by non-compliant operators

The 'Safe and Legal Group' is also commissioning a QC's opinion on whether these advertising platforms have a duty of care to customers and share liability for any loss or injury to customers.

Previously ABTA and AITO commissioned similar advice, on the liability of OTAs for any loss or injury suffered by guests using accommodation listed on their websites. The resultant 18-page opinion stated that, although the primary liability lies with the owner of the property, OTA platforms have a secondary liability and can therefore be held responsible for listing properties that are not legally compliant.

We are asking for a new opinion from Jonathan Kirk, QC, of Gough Square Chambers, (one of the top consumer law QCs in the country) that specifically looks at whether sharing platforms are similarly liable for the care of consumers who book properties through their websites.

We have now crowdfunded the necessary funds from the 'Safe and Legal Group' and will be seeking to publish the findings in late September. Hopefully this will coincide with the much-promised Roundtable Meeting with DCMS on the subject.

In simple terms what does this mean?

We believe that online platforms that hide behind Terms and Conditions that state that the property advertised may not be safe, legal or even exists and is taking an agency commission for the booking, often as high as 20%, are not working in the consumers best interests, and if they were to publish their hard-line terms across every booking page, would not get any bookings at all. This is worse than buyer beware.

This is a screen shot of the AirBnB terms

1.3 While we may help facilitate the resolution of disputes, Airbnb has no control over and does not guarantee (i) the existence, quality, safety, suitability, or legality of any Listings or Host Services, (ii) the truth or accuracy of any Listing descriptions, Ratings, Reviews, or other Member Content (as defined below), or (iii) the performance or conduct of any Member or third party. Airbnb does not endorse any Member, Listing or Host Services. Any references to a Member being "verified" (or similar language) only indicate that the Member has completed a relevant verification or identification process and nothing else. Any such description is not an endorsement,

Conclusion

It is entirely possible for businesses that advertise online to ensure compliance. Some examples:

Operators such as www.cottages.com, which has over 30,000 properties, require all owners of properties that they market to be legally compliant and have Public Liability Insurance. This is checked for all 30,000 properties.

The holiday cottage agencies, which make up The Holiday Home Association, (formerly known as Easco) and CottageLine operate a policy of not advertising non-compliant properties, and they represent tens of thousands of properties throughout the UK. It is possible to have both scale and compliance.

Smaller operators such as www.premiercottages.co.uk, with less than 1,000 properties, simply state that you cannot be a Member and therefore the property will not be marketed unless the properties are National Quality Assurance Scheme (NQAS) graded. (See below for details).

There is a range of off-the-shelf schemes that are available that check compliance. Here are two examples:

- 1) VisitEngland have a Grading Scheme called The National Quality Assurance Scheme (NQAS) which will not provide a grading certificate to owners of properties that do not have the relevant regulatory safety certificates, PLUS owners in the Scheme have to provide Public Liability Insurance certificates.
- 2) A new and inexpensive scheme has been launched by Quality in Tourism offering Entry level accreditation called **Safe, Clean and Legal™**, which is just £100 + VAT.

We know we are challenging large, almost exclusively American, organisations with this campaign, who will avoid making people listing tourism accommodation on their websites comply with the law until absolutely necessary. Only the Government that can make them do this, but has so far been reluctant to take any action. This campaign is therefore to put pressure on Government so that it has no other option but to take steps that ensure the safety of customers, that there is a level playing field for all tourism accommodation businesses and to prevent any incident that would harm the reputation of the UK tourism industry.

Other Countries are taking action, a small selection can be found behind the links below.

Hawaii

Hawaii Magazine. 25-7-2019. Draconian curbs on AirBnB listings.

<http://bit.ly/2Z2h7bT>

Japan:

Travelmole. 8-6-2018. Japan clamps down on AirBnB.

<http://bit.ly/2HzGI6O>

Switzerland:

Swiss Info. 1-7-2018. Switzerland's rules on AirBnB.

<http://bit.ly/2ZojA0j>

Denmark:

BBC. 8-6-2018. Denmark taxes AirBnB properties.

<https://bbc.in/2ZoS578>

Spain:

Citylab. 6-6-2018. Barcelona finds a way to control AirBnB.

<http://bit.ly/2Zo4wjj>

Balearics:

Reuters. 26-4-2018. Balearics ban most AirBnB's

<https://reut.rs/2ZwsDM9>

San Francisco:

Tech Crunch. 5-11-2018. San Francisco clamps down on AirBnB.

<https://tcrn.ch/2ZmOkkd>

San Francisco Chronicle. 13-3-2019. Santa Monica uphold strict AirBnB rulings.

<http://bit.ly/30IErbv>

Paris:

BBC. 11-2-2019. Paris sues AirBnB.

<https://bbc.in/2zvFZtw>

General Review from Conde Nast:

Conde Nast. 22-6-2016. List of places with strict AirBnB rules.

<http://bit.ly/2Ph2il1>

And finally...London:

Daily Mirror. 29-7-2019. Man fined £100,000 for illegal letting on AirBnB.

<http://bit.ly/2HwDBXK>

It is not difficult for the 'Sharing Platforms' to ensure compliance, as can be seen above, they have done it in other countries, so all they need to do is switch on their compliance system which they have already created. The is not about it being difficult for them to do it, it is simply the case that they do not want to and the Law is being broken wholesale as a result and there will be terrible consequences. We are calling upon the Government to take firm and comprehensive action on this before a tragedy occurs.

Thank you for reading, and should you have any questions, please do not hesitate to contact me.

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