

Scottish Expert Advisory Panel for the Collaborative Economy
Short Term Rentals and Peer to Peer Accommodation
21 June 2017

Response to Questions from the British Hospitality Association (BHA)

The Scottish Expert Advisory Panel for the Collaborative Economy would like you to consider the following questions and submit your responses, ideally limited to four pages, by close on 16 June.

1. What data or evidence can you provide on the social, environmental and economic impacts of the peer to peer accommodation market in Scotland?

As intermediaries, platforms do not provide data or take responsibility for the services they facilitate. The identity of hosts and properties is therefore unknown, resulting in a largely invisible home sharing economy.

The many reports, in the UK and worldwide, which analyse the effect of home sharing, or peer to peer accommodation, on cities, residents and communities and the wider hospitality industry, rely on websites which 'scrape' and analyse data from the internet. Perhaps the most well-known is InsideAirbnb.com, based in New York. Another site - tomsleecollection-get-the-data, in Canada - also collects data on Airbnb, the largest home sharing platform.

Government bodies, local councils, banks, property companies etc. use this data - such as inner London Councils, Morgan Stanley, Colliers, Hotelschool The Hague and academic institutions -LSE, Harvard and Resident Landlords Association.

If required the BHA can provide some of these reports to the Panel.

Social, environmental and economic impacts

There is no clear distinction between home sharing activity and traditional hospitality / commercial accommodation businesses since many hosts are not home owners but 'landlords' and are effectively businesses providing visitor accommodation.

Figures in July 2016 from InsideAirbnb data demonstrate this - of the 6,272 listings in Edinburgh 54.7% were entire properties and 43.8% represented hosts with multiple listings (such as 'Anabel' with 36 properties).

The difference lies in the lack of any information about the activities of these 'business' hosts and consequent inability to enforce regulation. Visitors face consumer protection issues and are at risk, when crucial gas, fire and food safety regulations cannot be enforced and insurance cover may be absent.

The social impacts include housing shortages for residents – since the higher rents earned from short term lettings reduce the availability of medium / longer term residential lettings and increase rents and house prices.

Communities can be eroded and visitors lose the very thing they seek – an authentic experience of how the locals live – as residents leave, unable to find affordable housing.

We understand that the City of Edinburgh Council is asking for further research into housing issues.

Scottish Expert Advisory Panel for the Collaborative Economy
Short Term Rentals and Peer to Peer Accommodation
21 June 2017

Response to Questions from the British Hospitality Association (BHA)

In London, the inner-city boroughs are seriously affected. In Westminster, short term lettings have increased by 125% since deregulation in 2015, rents are 3-4 times more for short lettings than residential.

Nuisance is another area of concern. Andy Wightman, Green MSP for the Lothians has issued a briefing paper on antisocial behaviour and loss of community amongst residents in some parts of Edinburgh.

Throughout the world similar findings have led to new regulations (see question 2).

Economic Effect. Traditional, commercial hospitality venues comply with many regulations and pay heavy taxes (see question 6) supporting an industry which employs over 245,000 people in Scotland.

Hosts/landlords can offer lower prices because they have minimal overheads (few if any employees, little tax, no enforcement of regulation etc) and fewer tax obligations, whilst some simply operate illegally in an invisible market. This inequality creates an anti-competitive and unfair market place, in which visitors, unaware of these issues, often choose home sharing venues rather than hotels or other traditional forms of commercial accommodation because they are less expensive.

This distorts the market and undermines the hospitality industry which contributes significantly to the Scottish and UK economy. In the longer term, it may alter visitors' perceptions of Scotland as safe and attractive destination.

2. How can we ensure that both hosts and guests are suitably protected, such as knowing where to turn if something goes wrong and that health and safety standards are adhered to? Where do we see best practice globally?

The BHA believes it is vital to have independent experts to manage safety, housing and community— such as the fire and rescue services for fire and town and rural council planners, familiar with the needs of their communities and the use classification of property.

In our opinion self-regulation is not sufficient. It is not appropriate for online platforms, often located 'offshore', to manage or delegate to associated companies, matters which directly affect the safety of visitors and the lives of residents. Advice on good practice and insurance cover is desirable but not sufficient to prevent serious harm, especially when offered by those who are operating at arm's length.

Knowledge of the home sharing economy is essential. Without the name and address of a host, it is not possible to enforce regulation, understand what accommodation is being provided or take decisions about any required changes in regulation.

We propose that all hosts should:

- be required to register with local authorities,
- pay an annual registration fee to provide the resource needed by local authorities and others to enforce regulations for the many thousands of new listings, and
- online platforms should list only hosts who are registered,

Scottish Expert Advisory Panel for the Collaborative Economy
Short Term Rentals and Peer to Peer Accommodation
21 June 2017

Response to Questions from the British Hospitality Association (BHA)

- visitors should have transparency - hosts should declare their status as 'host' i.e. resident homeowner or 'landlord' letting property or properties which is/are not their home,
- sanctions should apply for failure to comply.

Global regulation

Many cities worldwide have implemented regulation. Practically all suggest registration of hosts or a business licence. Paris, Berlin, Barcelona, Brussels, San Francisco, Quebec all have registration requirements. Portugal and Japan require registration nationally.

In some cities only resident home owners may operate short term lettings, with large fines (up to €100,000) for failure to comply (Paris, Berlin), Brussels requires a health and safety inspection, others ask for business licences and taxes (Vancouver, Seattle, Santa Monica). Other US cities have zoned some areas where short term lettings are no longer allowed (Miami Beach and New Orleans).

Also of interest is Istanbul where, if lettings are made without a contract, guest information must be obtained and non-compliance can result in prosecution for 'association with terrorism'.

These are just some of the many regulations; many more are in discussion. Twenty-two mayors around the world recently created a global alliance to discuss how to manage the home sharing economy. If the issues being addressed by these cities are not already evident in Scotland, it is quite likely that they will become so (and not just in cities) and there is a case for the Scottish Government / local authorities to begin to consider their response. Scotland has the opportunity to develop a clear and well-ordered regulatory framework which includes home sharing.

The priority is to obtain data, through registration. With knowledge of the sharing economy it should be possible to consider its management – such as whether regulation should be reduced for all small accommodation providers, how many businesses need to become compliant and, importantly, how to achieve a competitive market in which strategic priorities and policies for tourism in Scotland (such as the authenticity and quality of the visitor experience) can flourish?

3. What are your suggestions for mitigating any unintended consequences of the short term accommodation rental market and how they might be balanced with existing priorities and policies such as Tourism Scotland 2020?

See answers above.

4. What solutions are there to ensuring that the relevant taxes are identified and collected and that regulations are adhered to?

Online platforms are often headquartered abroad in countries with lower rates of taxation, paying very small amounts of corporation tax to the Exchequer despite a large turnover in the UK.

Scottish Expert Advisory Panel for the Collaborative Economy
Short Term Rentals and Peer to Peer Accommodation
21 June 2017

Response to Questions from the British Hospitality Association (BHA)

In contrast the hospitality industry pays heavy taxes: corporation tax, as well as VAT and business rates - the Financial Times calculates that 17% of room price is VAT(after recovery of costs) and business rates.

Hosts renting rooms currently have a £7,500 tax relief. VAT is only payable on commission (about 13% of accommodation cost) as hosts are rarely VAT registered and business / non-domestic rates are (usually) not payable.

HMRC considers the collaborative economy as a significant part of the 'hidden economy'. It has extended powers to require bulk information from platforms and it is to be hoped these are being used in home sharing.

The registration of hosts and properties should also assist in distinguishing homeowner hosts from hosts with multiple properties who are running businesses.

5. How can we ensure that any regulations are proportionate, taking account of the range of hosts on platforms - occasional use individuals, professional landlords, estate agents and hotels, whilst ensuring that there is no competitive advantage between platforms and traditional business models?

As previously mentioned, to ensure that regulations are proportionate and apply to everyone equally it is necessary to understand the marketplace and what the home sharing economy comprises. To do this we need data on hosts and properties.

A register would enable authorities to distinguish between those compliant business users who use online platforms for bookings (e.g. formal self-catering and serviced accommodation providers such as B&B operators) and those using these platforms without complying with regulation.

See answer to question 2 for details of registration.

6. What are your suggestions for any amendments to existing regulations or new regulations?

Once the composition of the home sharing marketplace is known it will be easier to see what aspects of regulation need amendment and, indeed, whether any new regulation is required. Regulations should be applicable to all relevant businesses and be appropriate to the size and nature of the accommodation offered, not whether the booking is made on a sharing platform.

However, it is unclear in what circumstances short term commercial visitor accommodation requires a change of use. The guidelines are indefinite and, given the rapid increase in providers of short term accommodation, should be clearer.

At present the thresholds at which some fire and food safety regulations become applicable seem unduly complicated and perhaps confusing for smaller businesses. For example, recent research by BHA reveals the following situation in Edinburgh:

- planning consent for the use of a house as a B&B or guest house depends on the size of the house (number of bedrooms) and the number of bedrooms to be let to guests,

Scottish Expert Advisory Panel for the Collaborative Economy
Short Term Rentals and Peer to Peer Accommodation
21 June 2017

Response to Questions from the British Hospitality Association (BHA)

- change of use consent from a residential property to short stay commercial leisure accommodation may be required depending on the character of the new use and the wider area; the size of the property; the pattern of activity including numbers of occupants, the period of use; issues related to noise, disturbance and parking,
- food businesses must register with the council. Business premises which handle meat, fish, egg or dairy products must be inspected and approved by the local authority,
- fire safety regulations apply to self-catering holiday properties which are occupied by a maximum of 10 persons of offer B&B accommodation to not more than 8 guests, although no guest or letting accommodation is permitted below the ground floor or above the first floor of the premises,
- in relation to non-domestic rates, the Scottish Assessors Association (SAA) offers no guidance in relation to B&Bs although guest houses (undefined) are valued for rates. Self-catering properties (not being the sole or main residence of anyone) are subject to valuation if they are available for commercial letting for an aggregate of 140 days per annum.