

Rother District Council

Report to	-	Licensing and General Purposes Committee
Date	-	15 July 2019
Report of the	-	Executive Director
Subject	-	Short-term holiday accommodation

Recommendation: It be **RESOLVED:** That:

- 1) consideration be given to the financial implications and limitations of operating a two year pilot project to operate a voluntary registration scheme for short-term holiday accommodation;
 - 2) if supported, Cabinet be requested to identify the budget and approve the additional expenditure of £15,000 required to support this work and for a report to be made back to the Licensing and General Purposes Committee at the end of the pilot project; OR
 - 3) defer any action pending a change in current Government policy not to introduce a statutory register.
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Head of Service: Richard Parker-Harding

Introduction

1. Cabinet considered a report from the Tourism Task and Finish Group (TT&FG) and resolved: "The Council consider what resources would be required with the introduction of a statutory registration scheme for tourism accommodation, to be offset by registration charges and report back to the Licensing and General Purposes Committee" (Minute CB19/04).

Background

2. Short-term holiday accommodation, which is rented from one day to a few weeks, through websites, has become increasingly popular, compared with traditional holidays in bed and breakfast type accommodation. The website <https://www.airdna.co/vacation-rental-data/app/gb/south-east/east-sussex/overview> shows that there are over 3,000 properties in East Sussex, with a working assumption that half would be in Rother and Wealden.
3. Nationally there are concerns about the safety and quality of the accommodation, the impact on residents and the use of such unregistered accommodation for criminal activities; attached at Appendix A are comments from Sussex Police.
4. Traditional bed and breakfast type accommodation must be registered with the Council, as a food business (food being supplied) and pay business rates. A fee cannot be charged for registration. Appendix B sets out the legislation

that applies to short-term holiday accommodation. The legal controls on safety do exist, the problem is one of enforcement, particularly identifying where these properties are and then inspecting them.

5. However, Members need to note that Government policy is currently not to make legislation requiring the registration of short term holiday accommodation (further information at: <https://researchbriefings.files.parliament.uk/documents/CBP-8395/CBP-8395.pdf>).

Purpose of the short-term holiday accommodation project

6. In light of the recommendation from the TT&FG, Members are advised that a Senior Environmental Health Officer could undertake a pilot project on short-term holiday accommodation, with the temporary support of a part-time Business Support Officer. The Council currently has a Senior Environmental Health Officer post vacant, which it would have to recruit to. The cost of employing a temporary Business Support Officer would be £15,000 per annum (p.a.).
7. The project covering Rother and Wealden (as environmental health is a shared service) would aim to:
 - a. Identify short-term holiday accommodation that is not registered as a food business with the Council. This in itself could be challenging and time-consuming, as the addresses are not readily available.
 - b. To inspect that accommodation to check compliance with safety legislation. 150 of the 1,500 properties could be inspected every year. Once inspected these properties could then be mainly subject to self-certification.
 - c. To liaise with other agencies including the fire service, police and trading standards, so these agencies are aware of the location and ownership of the property and can take enforcement action, if necessary.
 - d. Explore the possibility of creating a voluntary register for such accommodation, with accommodation providers paying a fee to be registered. The benefit to the businesses being that they could advertise that they were registered and were subject to inspections by local authorities.

Voluntary Register

Although legal controls apply to all short-term accommodation, the Council may not be aware that a property is being let out. As the occupier is unlikely to complain or still be in occupation, it is unlikely an inspection would be carried out. In effect, unless there was an accident or a fire the local authority would not intervene. A registration scheme for short-term accommodation would have the benefit of requiring self-regulation in the form of submitting fire risk assessments and annual gas safety checks etc. It would also enable Councils to carry out inspections of a few registered properties a year, to check compliance and inspect all properties that do not submit certificates etc.

Cornwall Council has recently introduced a voluntary Quality in Tourism scheme, whereby the authority and fire authority approve short-term accommodation.

Financial Implications

8. The cost of employing temporary business support staff would be £15,000 p.a. which is not included in this year's budget. This cost might be offset in the future if businesses agree to pay to join a voluntary register.

Conclusion

9. Nationally concerns have been raised about the impact of unregistered short-term holiday accommodation. Cabinet has asked this committee to consider a registration scheme for short-term holiday accommodation. Pending national legislation, a two year project could be carried out to seek to register and inspect this type of accommodation. In the meantime, Government are not currently seeking to make legislation requiring the registration of short term holiday accommodation so there is little / no guidance to follow. Alternatively Members may wish to defer a decision pending any change of legislation.

Malcolm Johnston
Executive Director

Risk Assessment Statement

Injury to occupiers and criminal activity may take place in unregistered short-term holiday accommodation. There are limited risks to the Council's reputation in that the Council may be failing to enforce safety legislation in premises it has not inspected because it is unaware of its existence.

Appendix A

As discussed at a Partnership Tactical Tasking Co-ordination Group, Sussex Police have identified that a number of organised criminal gangs (OCGs) have been utilising short-term lets and unregistered premises to facilitate criminal activities which have subsequently posed threat, harm, risk and exploited vulnerable individuals across East Sussex.

This activity appears to be a method of approach the OCGs are now utilising and therefore establishing a register for these type of premises would be supported in order to assist in tackling this issue.

Stu Hale
Temporary Detective Superintendent

Received 2 May 2019

Statutory controls on short-term accommodation

1. Current controls

- 1.1 HMO Licensing: a landlord must hold a licence for the property rented out if: the property is occupied by five or more people, who form two or more households (i.e. do not live as one family) and share at least one amenity (bathroom, kitchen, toilet). This is unlikely to apply to short-term holiday accommodation.
- 1.2 Housing Act 2004: properties let on a short-term basis are subject to the Act and the Council does have the power to serve an improvement notice or prohibition order if a category 1 hazard exists e.g. dangerous electrical installations.
- 1.3 Food registration: food business operators must register any premises used for any stage of the production, processing and distribution of food, unless production is for domestic use only. This is unlikely to apply to short-term holiday accommodation.
- 1.4 Caravan sites (including holiday use): the site operator requires a licence. A caravan is defined as a structure that can be moved from one place to another and includes lodges that are pre constructed and bolted together on site. A caravan on domestic premises used by the household living in a property on the land does not require a licence. Caravans used for seasonal agricultural use or temporary use by construction workers do not require a licence. Land used to store caravans does not require a licence.
- 1.5 Tents: occupied for more than 42 days require a licence under the Public Health Act 1936, as a temporary dwelling.
- 1.6 Health and Safety at Work etc Act 1974: Its general principle **is** that employers have a duty to protect the **health, safety** and welfare at work of all of their employees. It also **covers** other people visiting the workplace premises such as temporary workers, casual workers, self-employed workers, clients, visitors and the general public. If the owner of short-term accommodation employs a cleaner or maintenance person the Act would apply.
- 1.7 All properties let out are required to have annual gas safety certificates and any furniture provided would need to comply with fire regulations.
- 1.8 Fire risk assessments (enforced by ESFRS) are required to be carried out for dwellings which form part of a commercial property. **The Regulatory Reform (Fire Safety) Order 2005** requires the Responsible Person (RP) of any non-domestic premises to carry out a fire risk assessment, including measures to reduce or eliminate the risk of fire, and identify persons at risk. The Order would apply to short-term accommodation.