

OPERATING A CONSIDERATE HOLIDAY LET

A North Devon Council Best Practice Charter in Association with the UK Short-Term Accommodation Association

Introduction

Tourism is one of northern Devon's most important sectors, estimated to support more than 11,000 local jobs across North Devon and Torridge District areas. The sector is particularly important to many of our most rural and peripheral communities, where it is often difficult to find businesses and employment that are not in some way reliant on tourism. We are fortunate to live and work in one of the world's most beautiful places and privileged to be able to share that with others. Of the 6m visitors we welcome each year to northern Devon, 1.3m are staying trips.

North Devon has a vibrant holiday let market and some online platforms make it possible to let properties or rooms at short notice and for a few weeks or just a few days at a time. Homeowners are able to benefit from a new source of income whilst presenting holidaymakers with an alternative to established holiday parks, hotels and guesthouses. We have seen that it is not just existing homeowners that are taking advantage of the holiday let market. Commercial operators and owners that own multiple holiday let properties are also operating in the area.

We know that most homeowners or operators who let on this basis do so within the law and maintain excellent standards. However, in some cases it can be unlawful (whether intended or unintended), and when poorly managed can adversely impact on the quality of life and comfort of neighbouring residents.

We are committed to tackling these common industry challenges and are working towards a stable and supportive regulatory environment. In doing so we have worked in partnership with the UK Short-Term Accommodation Association (STAA). This charter defines the parameters of the law and sets out a best practice standard to which all freeholders, property owners, managing agents, and hosts engaging in this activity have a shared responsibility to uphold.

Who may be affected

The aim of the charter is to provide advice to anyone who lets out whole properties or rooms for short-stay lettings. This may include lets to people on holiday for few nights and could include:

- freeholders, who own the land or building used as short-stay or holidays lets
- homeowners or flat leaseholders who pay the council tax for the property and let it out for some weeks throughout the year

- tenants who let out their own rental property with the consent of their landlord
- owners of second homes who allow family and friends to stay or let out for short stays or holidays when they aren't living there
- owners of property who operate a holiday let or short stay company and pay business rates
- owners of property who let out for short stays for at least 140 days a year
- people who occasionally let out a room in their home for B&B short-stays or holidays
- agents acting on behalf of property owners. This may include managing bookings and payments for short stay and holiday lets or providing a cleaning and maintenance service
- hosts who use letting websites to find short stay visitors to stay in their own home or another dwelling
- homeowners who regularly utilise home swaps with other homeowners elsewhere to allow each to holiday in the other's home

Considerate Holiday Letting Best Practice

If you are the property owner, managing agent or host you should...

- ensure you meet all legal requirements for short stay letting
- make sure you know who is in your property by meeting the guests and ensuring keys are only handed to people whose ID is verified
- clearly display emergency contact numbers for your guests and ensure that a contact is reachable 24/7
- provide and clearly display a Code of Conduct for your guests. This should promote mindfulness of neighbours and include reminders to guests not to knock on neighbours' doors and to keep noise to a minimum, particularly outside of daytime hours. You should also display information restricting the hours of use of outdoor equipment and facilities. For instance, hot tubs, which should not be used after 11pm.
- notify your neighbours that you will have guests, and provide them with a 24/7 contact number, should any issues arise. For example, noisy parties that affect your neighbours.
- ensure a 'no party policy', even when letting to large groups and require guests to notify you of any additional guests who will be present beyond those who have booked your home
- ensure you have insurance in place to cover the guest stays, including 3rd party liability insurance
- clearly describe rubbish collection dates and recycling policy to guests and ensure that arrangements are in place to display rubbish/recycling only on the correct days
- provide somewhere to store the rubbish and recycling when the collection day is before guests arrive or after guests have finished their short stay
- sign up to an independent accreditation scheme, such as the STAA and Quality in Tourism's Safe, Clean, and Legal accreditation for hosts and property management agencies

Why these guidelines are so important

Housing is in short supply in North Devon and therefore taking properties off the long-term residential let market or the freehold market solely to let to tourists for a portion of the year, has an impact on our overall housing availability for local people.

Certain parts of North Devon now have very high proportions of properties being used for second homes and short stay holiday lets. That has an impact on local services and on community cohesion which can be exacerbated by the management issues described below.

There should be recognition that a property that is used as a short stay holiday let is usually used differently to a property that is lived in permanently and that this can have an impact on immediate neighbours.

Neighbours and the community affected by irresponsible short stay lets also report being affected by issues such as:

- poor waste management
- excessive noise
- reduced sense of community and security from high turnover of guests at all times of the day and night
- targeted abuse when trying to address issues, such as noise, directly with guests
- sleep deprivation from homes being used as 'party venues' or by large groups of individuals. This includes outdoor noise.

When properly managed, holiday lets will avoid this impact and also bring positive benefits such as:

- an affordable and comfortable stay for guests
- bringing income to local businesses
- additional income for homeowners
- additional tax income for the government

The Law

If you are looking to let your home on a short stay basis, it is easy to assume that what is good enough for you as the homeowner is good enough for your guests. However, there are important steps, which you must think through in order to check you have permission to share your home.

Who can let their home?

You are only able to let out your home and host if you:

- own or lease the property
- own a share of property and you have the agreement of your other owners
- have a lease or tenancy and your lease does not expressly forbid this activity
- own a property that has planning permission or development rights as a dwelling (C3) and it is not being used as a hostel or for multiple-occupancy lets

Depending on the terms of your agreement you may also need to notify or request permission to let from your:

- freeholder or superior leaseholder if your lease requires their consent
- insurer
- mortgage provider if you hold a mortgage
- landlord if you are a tenant (this includes council tenants, housing association tenants and tenants who rent from a private landlord)

Health and Safety (including Fire Safety)

You must take measures to ensure that your home is free from hazards that may lead to potential accidents such as falls and electric shocks. Your home must also have the appropriate fire safety measures installed such as smoke alarms. Failure to comply with these standards may also invalidate any insurance cover you have.

It is a legal requirement that a fire risk assessment is undertaken to identify hazards that may cause harm and explain action that is required to reduce the risk. While you can conduct the risk assessment yourself, it is a good idea to keep a written record of this and make it available for all guests. Normal home insurance may not provide cover for paid holiday letting and your insurance may be invalidated if you do not provide an adequate risk assessment for guests.

Consideration should be given to the fact that paying guests may be vulnerable. For example, are windows restricted to prevent a child falling? Are handrails provided on all stairs?

Certain facilities that are provided, such as swimming pools, hot tubs or play equipment, may introduce heightened health and safety concerns.

Key health and safety considerations:

- **Electrical safety:** there is a duty of care to ensure electrics and appliances within the property are safe and it is recommended that the electrical installation is tested by a registered electrician if no inspection has been undertaken in the last five years.
- **Gas safety:** there must be a valid gas safety certificate issued in the last 12 months to ensure all heating and cooking appliances are safe.
- **Carbon Monoxide:** a carbon monoxide alarm should be provided. Consideration should be given to the fact that adjoining properties may pose a risk.
- **Fire:** a fire safety risk assessment should be carried out to ensure hazards are identified, controlled and reviewed. The common parts of a communal building are subject to the Fire Safety (regulatory reform) Order 2005 which places a duty on the responsible person for the building to undertake a competent risk assessment and act on it accordingly. Breach of fire and safety regulations puts guests and neighbours at risk of serious injury or death, and can result in a conviction with an unlimited fine.
- **Furnishings:** must have a permanently attached label to comply with The Furniture and Furnishings (Fire Safety) Regulations
- **Security:** locks to doors and windows should provide appropriate level of security. Exit doors and escape windows should be capable of providing keyless exit in the event of a fire.

Regulations change and it is the property owner's or host's responsibility to ensure that the property is not just compliant when they start offering short stay lets, but remains so in the future.

Anti-Social Behaviour

Behaviour that has a detrimental effect on the quality of life of those in the locality, is of a persistent nature, and is unreasonable can be addressed through the use of the Anti-Social Behaviour Crime & Policing Act 2014. The Act allows for tenants, leaseholders, freeholders and managing agents to be held accountable if it is found that they have the ability to stop the anti-social behaviour cited.

Community Protection Notices can be served stating reasonable steps to be taken to stop the anti-social behaviour. A breach is a criminal offence and may carry fine of up to £2,500 for individuals or an unlimited fine for a business or other body. If the anti-social behaviour persists or it is determined that the local community require immediate respite, the Council and Police can consider serving a Closure Order on the property for up to six months, restricting all access.

Environmental Protection (waste)

Residential waste is controlled through the Environmental Protection Act 1990. Residents have a responsibility to dispose of their waste responsibly, utilising the on-street collections and/or bins within the district. A person guilty of an offence (including the presentation of waste at the incorrect time or location) is liable to a fine of up to £2,500 or prosecution.

Waste from short-term holiday lets that are operated as businesses is treated as commercial waste and should not be presented as residential waste. Separate arrangements for the collection of commercial waste should be made.

Environmental Protection (noise)

Should a noise nuisance occur we have the powers under the Environmental Protection Act 1990 to serve a noise abatement notice, prosecute, and seize equipment.

Tax

The money you earn from hosting is income and will be subject to tax. You may need to declare this to HM Revenue & Customs depending on the amount you earn from hosting or the type of letting that you operate. You can find details on the sharing economy [tax incentives](#) and how to [correctly account for tax](#) on the HMRC website.

Council Tax

If you let your property as permanent residential accommodation, your tenants will be liable to pay council tax. You remain liable for council tax if you let your property for short stays or holidays unless you qualify for the business rates thresholds, in which case, you would instead be liable for business rates.

If your property is wholly or mainly used in the course of a business for the provision of short stay accommodation, it is not counted as domestic property for the purposes of assessing whether council tax or business rates should be paid.

The potential pitfalls of non-compliance

<p>Failing to effectively control guest behaviour</p>	<ul style="list-style-type: none"> • Court action for breach of lease covenants • Enforcement action – fixed penalties or court action • Closure Orders
<p>Failing to adhere to health and safety regulations</p>	<ul style="list-style-type: none"> • Guests and neighbours put at risk of serious injury or death • Personal injury claims • Penalty fines • Enforcement action and criminal proceedings • Invalidation of insurance policies • Breach of mortgage terms • Breach of lease covenants
<p>Breach of the law</p>	<ul style="list-style-type: none"> • Claims for back payment of income tax and interest • Enforcement action – fixed penalties or court action • Paying the wrong property tax could mean having to pay the correct tax immediately • Allowing large groups of people from different households to rent your property for a holiday could result in a planning enforcement investigation for a change of use of the property

The benefits of implementing best practice

Where the above legal and best practice guidance is followed, there is a great opportunity for the community to benefit from increased spend in the area, employment opportunities and property owners and residents to earn income from homes that would otherwise sit empty.

Getting the balance right is important to that communities, owners and guests can all benefit from the wonderful experiences that the short term and holiday rental sector can offer.