

Scrutiny Panel Report on Short-term Holiday Lets



**Report of the Overview and Scrutiny Panel**

**October 2014**

## **Short-term Holiday Lets**

### **Panel Members**

**Councillor Geoffrey Bowden(Chair)  
Councillor Jayne Bennett  
Councillor Alan Robins**

## Chair's foreword

In July 2013 I asked that a scrutiny panel be established to look into the issue of what the media has labelled as '*Party Houses*'. This followed a number of representations in my own Queen's Park ward and, subsequently, from across the city from residents, whose lives had been adversely affected by the way some of these properties were being managed.

It was always accepted that short-term holiday lets catering for hen and stag groups contribute to the visitor economy, so the scrutiny panel sought to balance that against the genuine concerns expressed by residents affected by Anti-Social Behaviour. It is a growing market, so the panel felt it was important to find a mutually agreeable position that respects residents' views, but also supports responsible short-term holiday let operators catering for this market. We were also mindful of the impact on other local businesses, in particular small hoteliers, some of which aim to attract the same client profile, but are obliged to adhere to a more rigorous regulatory regime.

The panel had no interest in stifling business, but wanted to find a way forward that would benefit as many people as possible. However, as it became clear when taking evidence, properties catering for hen and stag groups or other large groups fall between the cracks of a number of legislative streams. Since a local authority's powers are limited, it was recognised that aiming for an operational 'gold standard' that responsible operators could sign up to might be the most realisable objective for the panel.

As a direct result of the establishment of a scrutiny panel, a number of local businesses have come together to promote best practice and offer some self-regulation of the market. The panel was heartened by this positive response and we hope that the Brighton and Hove Holiday Rental Association (BHRA) will evolve into a long-term partnership committed to running successful businesses in a respectful and sensitive manner, and, through its own example, be able to influence non-member operators to adopt best practice guidance.

We would like to thank everyone who took part in the scrutiny panel meetings or who contacted us to make representations. We would also like to thank the scrutiny team and council officers for their support. Finally I would like to thank my fellow panel members for their time and input into this panel. I think that we can all be proud of a thorough and positive piece of work.



A large, stylized handwritten signature in black ink, written over a white background. The signature is cursive and appears to be the name of the Chair.

## Introduction

There is no denying that Brighton & Hove has always been a popular holiday destination, whether it's for a week by the seaside or a shorter break. There are as many different reasons to come to Brighton as there are people visiting us, whether this is for people visiting by themselves or in larger groups, who want to share a property, for example family groups or people attending a conference.

One of the growing sector areas has been in short-term lets catering for these larger groups, particularly hen and stag parties. Recent research has shown that Brighton and Hove is one of the top UK hen and stag party destinations of choice<sup>1</sup>. A variety of accommodation types is available for all visitors, including hotels, guesthouses, B&Bs and short-term rented accommodation.

Councillor Geoffrey Bowden requested that a scrutiny panel be established to look into the issue of what were then referred to as 'Party Houses' – a journalistic shorthand; however following representations from operators in Brighton and Hove this has now been amended to 'short-term holiday lets' catering in particular for hen and stag groups. Local Action Team meetings in Queen's Park had highlighted these properties as an increasing nuisance problem to local residents. There had also been complaints from residents in other parts of the city including concerns about how the properties were managed, a lack of accountability, the negative impact they have on neighbourhoods, as well as whether they are being correctly classified as 'temporary holiday lets', for planning purposes, business rates and commercial waste collections.

The aim of the scrutiny panel was to establish a set of 'gold standards' for short-term holiday let properties aimed at the hen and stag market, so that they could be operated as successful businesses, while minimising disruption to neighbours and local residents.

As part of the panel process, panel members heard from members of the public across the city about their experiences, as well as from a representative of the city's small hoteliers and a number of large holiday let operators who manage or own properties in Brighton & Hove operating in this market. Panel members also spoke to council officers in Planning, Legal Services and in Environmental Health, the Police, as well as receiving ongoing support from East Sussex Fire and Rescue Service.

Complaints could largely be grouped into those relating to noise and anti-social behaviour; disruption to neighbours; how the properties were managed, including lack of response to complaints, and a feeling that there was little that statutory agencies could do or had done through existing legislation. At the same time small hoteliers told the panel that they felt that there was not a level playing field in terms of the regulatory regime under which they are

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<sup>1</sup> <http://www.redsevenleisure.co.uk/hen-weekends/uk/>

obliged to operate, compared to short-term holiday lets catering for hen and stag groups or for other large groups.

In response, operators said that the complaints were often historic, which had occurred when the industry was in its infancy. They felt that the number of complaints had fallen considerably since that time, and that they were much quicker at pre-empting problems. The operators told the panel that they had recently set up a trade association, Brighton and Hove Holiday Rental Association, to promote best practice among holiday let operators and that they could regulate the market themselves.

The panel decided to allow the newly established industry body the opportunity to demonstrate that it could effectively regulate its members and promote best practice across the market. It is the panel's recommendation however that the council should closely monitor complaints and reports of nuisance to ensure that these incidents are addressed as soon as they occur and, should it prove necessary, take stronger action.

The panel is also mindful that new national legislation is due to come into action in October 2014 which, the Home Office says will allow local authorities to tackle any anti-social problems more speedily through the use of enhanced closure powers and community protection orders. Of course the panel would prefer not to go down the route of taking enforcement action, opting to work with the BHRA members instead seeing this as a more positive way forward. However, it is important that all parties understand that those new powers will be available to the local authority and will be used if it proves necessary.

The panel would like to thank everyone who submitted evidence or attended the panel meetings. It has been invaluable to hear from all sides. The panel hopes that this report gives a balanced account of everyone's views and provides a practical way of moving things forward to everyone's satisfaction.

Councillors Geoffrey Bowden, Jayne Bennett, Alan Robins

September 2014



## 1. Scene Setting

### What are short-term holiday lets?

- 1.1 One of the problems that the panel encountered when beginning their research was that there is no agreed definition of a 'party house' or short-term holiday let. The same property might cater for a hen or stag group one weekend, a group of conference delegates the following week, a family group the next week. It became clear during the evidence gathering that the types of guests that were being referred to as causing problems tended to be larger stag and hen groups.
- 1.2 With all of the above in mind, panel members began by defining 'party houses' characteristics as
  - *short-term let available to rent for up to a week at a time*
  - *accommodating 6 people or more (not usually a family group), usually with two or more people per room*
  - *tending to be used for stag and hen parties, but not always the case.*
- 1.3 During the course of the panel, the short-term holiday let operators suggested that the focus should be on those properties that can accommodate ten or more guests<sup>2</sup>; after reflection this was agreed by the panel.

### Figures

- 1.4 One of the problems that the panel had at the outset of the process was quantifying how many short-term holiday lets catering for hen and stag groups there were in the city. As part of the initial enquiries, a range of figures were given from a number of sources including East Sussex Fire and Rescue service and Environmental Health. Figures ranged between 50 and 500 properties although this latter number included all holiday lets of any size. Part of the panel's remit was to quantify the market size so that the potential impact on residents could be assessed.

As part of their evidence Brighton and Hove Holiday Rental Association (BHRA) said that they had cross referenced all websites and adverts to ascertain what they considered to be a definitive number of properties. They found a total of 106 properties in the city that sleep ten or more people.<sup>3</sup> 78 of these are sole agency properties, and 28 are managed by more than one agency. Brighton Holiday Homes, one of the members of BHRA, manage over one third of these properties<sup>4</sup>.

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<sup>2</sup> Stephen Stone, Panel meeting 18 February 2014

<sup>3</sup> Stephen Stone, Panel meeting 18 February 2014

<sup>4</sup> Neil Stonehill, Panel meeting 18 February 2014

- 1.5 There were various references to the 'grey market' during panel meetings. This was used to refer to private accommodation that is rented out on an ad hoc basis, typically through websites like Air-bnb, rather than through rental agencies. It is harder to quantify these types of property or to deal with any problems that may occur, as they can pop up from time to time without any notification. BHRA have advised the panel that their own investigations show that Air-bnb currently advertises 5 large group holiday rentals that are not already advertised by agencies or other holiday rental websites (as of 24 July 2014)<sup>5</sup>

The panel wanted to clarify that they did not feel that all 'grey market' properties were the source of anti-social behaviour and that as with more permanent holiday let operators, there were responsible owners of temporary holiday lets as well. The panel also noted that the Air-bnb relied on positive feedback from those renting the properties and the owners who tend to rent only to those who have received good feedback from other Air-bnb owners.

### Terminology

- 1.6 The panel began their investigation by referring to the short-term holiday lets as 'party houses' in the absence of an agreed alternative. At the beginning of the second panel meeting, it was noted that some of the operators and local business people involved in the panel were unhappy with the phrase and felt it had unduly negative connotations. They asked for an alternative; 'large group private holiday lets' was suggested; this was subsequently changed to or 'short-term holiday lets' catering for hen and stag groups.

### **Why we are looking at it?**

- 1.7 The topic of what was then called 'party houses' was suggested by Councillor Geoffrey Bowden, who had had a number of complaints from concerned residents within and outside his ward of Queen's Park. His enquiries into these complaints showed that there was no one regulatory body or council body with responsibility for 'short-term holiday lets'. It seemed to fall between Planning, Environmental Health, Licencing and the fire service but no team had overall responsibility. The anti-social behaviour did not appear to be a police priority either.
- 1.8 Panel members were very clear that their intention was to signpost residents so they clearly know where they can go for assistance and help businesses agree a 'gold standard' for holiday let operators catering for large, potentially disruptive groups. It was not the panel's intention to hamper responsible operators or close down the industry, but to support both residents and responsible operators to allow the

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<sup>5</sup> Email from BHRA, 24 July 2014

sector to flourish while respecting the communities within which they operate.

## **2 Residents' Experiences**

- 2.1 The panel dedicated their first public meeting to hearing from residents who had had cause to complain or raise concerns about short-term holiday lets. They issued press releases, tweeted and gave local radio interviews to raise the profile of the panel and ensure that as many people as possible would hear about the panel. This was in order to gauge the size of the problem – see paragraph 1.4 above..
- 2.2 Complaints fell into a number of broad categories; noise throughout the day and night was the largest concern, as well as litter, the lack of parking, a lack of accountability on the part of the property owner or operator and 'pre-loading' with alcohol before groups left for the evening.

Some of the complaints about behaviour included:

*...constant banging on the front door at 3am....*

*....A stripper physically in the street with screaming girls around.....*

*.....The noise is intermittent and generally between 11pm and 5 in the morning....*

*Guests congregating outside the house to smoke*

*..Huge piles of refuse and recycling being left and not cleared by the owners*

*...Fleets of taxis blocking the road.....*

*(All quotes from emails/ evidence received from residents)*

- 2.3 Residents were also concerned that when they did complain, whether to the council, the police or directly to the house, they were often told that there was nothing that could be done to help at that time.

Some of the complaints about lack of response included:

*Police asked [me] to log calls [about noise complaints]. After two years of doing so, ... was told I was a vexatious complainant*

*Haven't contacted the police as I don't feel they will attend*

*...the noise patrol isn't really suitable as the complaints are sporadic.*

*...it would need to be a long term problem for any Environmental health action to be taken...*

*The owner says they won't have any more hen parties but they do anyway*

*(All quotes from emails/ evidence received from residents)*

### **3 The role of statutory bodies**

- 3.1 It was clear from the panel's early research that short-term holiday lets do not fall under any one statutory body. While various departments and organisations had an interest in particular aspects, there is no one over-arching body with responsibility or oversight for the industry. As part of their investigations, the panel asked for more information about the role of statutory bodies such as Planning, Environmental Health, Community Safety, Business Rates, the East Sussex Fire and Rescue Service and the police.

#### **Planning Enforcement**

- 3.2 The Enforcement Team would measure the 'amenity harm' from a property that was being investigated; it was not necessarily that amenity harm was automatically caused. 'Amenity harm' may be harm to visual amenity (appearance) or harm to the amenities of neighbours (such as noise disturbance, vibration, overlooking, and loss of light).
- 3.3 Enforcement relied on complaints being made about a property. If Planning Enforcement received a complaint, the complainant would be asked to provide an evidence base including how often the property was used, and the amenity harm being caused.

The Enforcement Team would cross-reference the complaint with other departments and agencies including Environmental Health and the police to check if they had had any complaints about the property. The next stage would be to serve a Planning Contravention Order on the owner, asking them to clarify the type and frequency of use. When they



received the information back, the Enforcement Team could then consider whether a Change of Use had happened.

- 3.4 The panel heard that in a twelve-month period, the Enforcement Team had received four complaints about 'short-term holiday lets' but initial enquiries with other departments had shown that no complaints had been made nor had noise diaries been completed so it was not possible to determine whether there had been a change of use.<sup>6</sup>
- 3.5 'Change of use' was an issue raised by a number of residents and the local hoteliers' representative. At present, if a property owner wishes to let their property out as a holiday let, there are no planning restrictions to stop them doing so. This means that potentially the owner could convert their property without any notification to neighbours or the local authority. Some residents said that they feel that this is very unfair as there is no opportunity to object as there is with normal planning applications. If holiday let owners had to apply for 'change of use' this would give residents and other affected parties the chance to make representations for or against the proposal and for them to be considered against a set of agreed criteria.

The Brighton Hotelier's Association raised similar concerns when their representative spoke to the panel<sup>7</sup>. They felt that there was not a level playing field when it came to the regulatory requirements for hotels and holiday lets; hotels have to comply with a number of planning, environmental health and other requirements which do not necessarily apply to holiday let properties. The necessary regulatory regime increased the costs for hoteliers and they were concerned that holiday makers would not appreciate the difference, and base their choice purely on price.

The panel heard that any change to planning legislation, including change of use would have to come from central government and was not within the power of local authorities to introduce. (As an aside, slightly different legislative powers exist for London authorities, which is why the London Borough of Westminster can introduce its own short-term let policy.)<sup>8</sup>

- 3.6 Panel members heard that there was no use class within planning legislation for short-term holiday lets, so the property would be changed to use class 'sui generis' ['outside classification']. Any potential change to this, for example, adding a class for short-term holiday lets, would again have to come from central Government.

## **Environmental Health**

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<sup>6</sup> Aidan Thatcher, Planning Enforcement, BHCC 20 February 2014 Panel meeting

<sup>7</sup> Mark Jones, hotelier, 13 February 2014 Panel meeting

<sup>8</sup> <https://www.westminster.gov.uk/short-term-letting>

- 3.7 The out of hours noise patrol service is managed by the Environmental Protection Team. It operates between 10pm and 3am on Friday and Saturday nights. Two officers provide this service for the whole of the city with the support of a controller. Officers aim to visit noise patrol customers within an hour.
- 3.8 Under the provisions of the Environmental Protection Act 1990 the team has a statutory duty to investigate noise complaints received, and assess whether a statutory noise nuisance exists. Noise nuisance is assessed having regard to the character, duration and frequency of the noise and how it affects a person in their home. They need to gather robust evidence in order to serve a noise abatement notice on the perpetrator, and this includes use of noise diary sheets, noise recording equipment that can be left in customer's homes, and visits by officers to witness the noise.
- 3.9 The panel heard that in 2011, there was a series of complaints about nuisance caused by short-term holiday let properties having large parties, including some properties that were the subject of legal action. As a result of these complaints, the Environmental Health Team met with some of the holiday let operators, East Sussex Fire and Rescue Service, and various council teams to discuss a way of managing these cases and preventing noise nuisance to neighbours. Since that time, the industry had begun to take ownership of the issue; they reported that they had not received the same number of complaints associated with these short-term let 'party houses'.<sup>9</sup>
- 3.10 There is now a practice of sharing intelligence and information on cases with East Sussex Fire and Rescue, Planning Enforcement, Neighbourhood Policing, and Community Safety Partnership. There are regular internal Joint Intelligence Meetings between the above agencies where cases are discussed. If there was a rise in complaints about noise nuisance or anti-social behaviour coming from short-term holiday let properties, this would soon come to the attention of these Joint Intelligence Meetings.
- 3.11 One stumbling block, which might be preventing people from formally complaining about noise, is that legally a property owner ought to declare knowledge of any noise complaints when they try to sell their property. It was felt that this may be acting as a deterrent to lodging complaints, since potentially it could affect the saleability of their homes.
- 3.12 It should be noted that several residents said that they did not contact the noise patrol team or other agencies when they experienced noise nuisance, as there was no swift solution to the problem. As mentioned in 3.9 above, residents need to gather evidence in order for action to

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<sup>9</sup> Annie Sparks, Environmental Health, BHCC, 20 February 2014 Panel meeting

be taken and this can take some time. The system is not designed to deal with individual one-off noise nuisance issues and if there are different holiday groups in a property every week, for some it appeared pointless making a complaint, if they know that the occupiers will not be there the next week. This means that the panel had to be very aware that the data on noise complaints was unlikely to paint an accurate picture of the situation on the ground.

- 3.13 The short-term let operators have said that they cannot respond to noise complaints or reports if they are unaware of the problems in the first place. While the panel thought this was a reasonable position to take, it also recognised that there was a Catch 22 situation in play. Some affected residents quite often put up with disturbance, since past experience showed their complaints fell on deaf ears. This in turn meant that operators could claim, with some justification, that their records showed no complaints.

A number of the operators clearly recognise the potential for noise and ASB as they operate their own noise patrol teams. There is an agreement with the newly formed trade association, Brighton and Hove Holiday Rental Association (BHRA), that they will investigate any complaints that are made about one of their properties and take action to address any anti-social behaviour. Please see section 5.12 below for more information.

There is also the forthcoming national anti-social behaviour legislation that is intended to deal with individual noise complaints in a much speedier manner. Please see 4.9 below.

### **Community Safety**

- 3.14 The Community Safety Officers told the panel that their focus is on ongoing issues rather than one-off problems. Over the last twelve months, the only reports that they have had regarding any nuisance caused has been about one-off incidents so it has not been appropriate for them to take action.

In common with the other teams seen so far, the Community Safety Team relies on robust evidence in order to take action. In the case of short-term holiday lets, the residents change every week and so it would be hard to take action against an individual.

### **Business Rates**

- 3.15 Several residents queried whether short-term holiday let operators were correctly registered as businesses and if not, whether this was something that ought to be taken forward. The panel spoke to the Business Rates team who advised that domestic property attracts Council Tax, based on the banding set by the Valuation Office Agency (VOA), a branch of HMRC. The banding is based on the market value

of the property as at 1/4/91. All other properties, other than exempt properties such as places of religious worship, attract National Non Domestic Rates (NNDR), often known as business rates. The amount payable is based on the rateable value (RV) of the property, again set by the VOA.

- 3.16 The law provides that properties that are available for short-term letting for at least 140 days per year should be assessed for NNDR rather than Council Tax. The council has referred a number of properties believed to be short-term lets to the VOA over the last few years; the properties have been removed from the Council Tax list and assessed them for NNDR, as holiday accommodation, instead.
- 3.17 Regarding the question of whether Council Tax or NNDR would bring in more revenue, this would depend on the rateable value and whether the owner qualifies for Small Business Rate Relief (SBRR). This provides a discount of up to 100% of the bill at least until 31 March 2015. (After that the discount levels may be halved, but it depends on central Government.) An owner will qualify for SBRR if the business is their only occupied NNDR assessment, and the rateable value is below £12,000. Relief is on a sliding scale, with a current discount of 100% for properties with RV rateable value of £6000 or less. Most of the holiday accommodation on the NNDR list has a rateable value at or below £6,000.<sup>10</sup> All of the holiday let businesses who spoke to the panel gave assurances that they were registered for Business Rates in the correct way.
- 3.18 Council staff in Business Rates confirmed that they would be responsible for investigating all businesses including holiday lets. Based on all of the above information, the panel decided not to investigate the business rates aspect any further as they felt that it was already being fully considered elsewhere.

### **Commercial Waste**

- 3.19 Some residents who gave evidence felt aggrieved that some short-term rental accommodation caused a build up of refuse, which should be collected under a commercial contract but that was left for domestic collection. The operators who spoke to the panel said that they all managed their refuse responsibly. BHRA is going to promote 'gold standards' for operating a holiday rental business; this will make reference to commercial waste collections.

The panel felt that if, as stated, those properties are paying Business Rates, arrangements must be put in place for commercial waste removal. At the same time Cityclean should be provided with a register of those businesses, so it did not collect refuse and recycling from those addresses.

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<sup>10</sup> email from Andy Hudson, Business Rates Team Leader, December 2013

## **Impact on Local Housing Market**

- 3.20 Several residents drew attention to the impact of converting family size accommodation into short-term holiday lets, thereby removing property from the family housing market. Brighton and Hove is already a highly competitive housing market, with over 18,000 on the Council's own housing waiting list and many others being priced out of the market by lack of supply. However the panel was very clear that they were in support of the holiday rental business provided that the properties are managed responsibly. Therefore they did not progress their enquiries into the impact on the local housing market, but wanted to note the residents' concerns.

## **Legal Powers**

- 3.21 The council's Senior Lawyer, Housing and Litigation explained that there had been legal action taken against the owner of a specific short-term let about five years ago but he was unaware of any current complaints that were undergoing legal action, this resulted in a fine of £10,000, which was later set aside on a technicality. The property ceased operating as a short-term holiday let shortly afterwards.
- 3.22 The panel was told that, in general terms, it was possible to carry out a private prosecution but it would need independent evidence so it is not a simple process. It's a similar situation if Environmental Health gets involved; an independent witness needs to observe the noise nuisance in order to take any action. It is hard to prosecute against a houseful of guests as you cannot prove who is making the noise; you cannot collectively prosecute unless you can prove everyone is responsible. A third option is to use Closure orders, which apply against a property rather than a group of individuals.<sup>11</sup>
- 3.23 The Anti-social Behaviour, Crime and Policing Act 2014 legislation is due to come into force in October 2014 which will give other legal remedies. Please see page 15 for more information.

## **4 External Agencies**

### **East Sussex Fire and Rescue Service**

- 4.1 Dexter Allen, Business Fire Safety Manager for East Sussex Fire and Rescue Service (ESFRS) explained that his team's aim was to stop fire risks, and stop bad things happening to people through fire. They can take appropriate action as quickly as needed and aim to provide a consistent and supportive approach to all businesses. He told the panel

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<sup>11</sup> Simon Court, Senior Lawyer BHCC, panel meeting 13 February 2014

that fire authorities don't have a 'too difficult' box – people's lives are too important. Mr Allen said '*Protecting Brighton & Hove's brand is key; one fire could adversely impact the entire visitor market.*'

- 4.2 ESFRS work with hotels, shops, clubs and marquees as well as holiday lets. In terms of holiday lets, they look at premises that sleep six or more people. ESFRS works with operators to audit their fire safety provision. Each property has a notice of works which need to be completed. He also stated that ESFRS has the power to shut down premises immediately if it was deemed too dangerous to allow it to remain open; this has happened on two occasions.
- 4.3 Mr Allen confirmed the information given by Environmental Health (in paragraph 3.10 above), that complaints had come to a head three years ago, but parties had come together to address the issues. There has been a mutual understanding of one another's positions and responsible operators have taken the time to engage with agencies including ESFRS.
- 4.4 Mr Allen told the panel that there is also the 'grey market' in accommodation, which can prove more troublesome due to its temporary nature. However, if and when they advertise their properties, ESFRS will find out about them and visit them to carry out the appropriate audits.
- 4.5 Mr Allen suggested that if there were to be a change in planning regulations seeking more regulation for holiday let operators, it could have the potential to drive responsible businesses underground and allow the grey market to take over. His position is that working collaboratively is a better way of moving forward.<sup>12</sup>

## **Police**

- 4.6 Inspector Gareth Davies, of the Safe in the City Policing Team, explained how the police would address any complaints that they received about nuisance caused by short-term holiday lets. Inspector Davies clarified that he thought that this was not a particular problem area for Brighton & Hove but outlined their general approach.
- 4.7 When a call is received by the police contact centre, it is assessed according to harm being caused. If the call concerned noise or other anti-social nuisance, a standard set of anti-social behaviour assessment questions would be asked to assess the level of response needed. The police use four response levels, emergency (aiming for response within 15 minutes), immediate (within an hour), planned follow up (passed to Neighbourhood Policing Team to follow up within a few days), and lastly, noted for information.

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<sup>12</sup> Dexter Allen, ESFRS Panel meeting 18 February 2014

Complaints about noise caused by short-term holiday lets would tend to be graded as 'planned follow up' although this could be increased if circumstances made it necessary, for instance if there was additional rowdy behaviour or if a complainant was particularly vulnerable.

- 4.8 Police powers were very limited dealing with noise coming from within a private dwelling; a significant amount of public disorder legislation only applies to public spaces. Police powers were limited but it was vital that the police had as much knowledge about a neighbourhood as possible and urged residents to log calls with the police. This would help to build the bigger picture and help to focus police resources where they were most needed. The police might not always need to take the lead on a particular issue, if a more appropriate agency was involved. Some agencies would have more impact than others, depending on the particular circumstance.<sup>13</sup>

Inspector Davies commented that the groups renting the properties often pre-loaded on alcohol. There was some discussion within the panel about the impact that this might have on A&E attendance, but as there had recently been a scrutiny panel looking at various aspects of alcohol consumption, the panel chose not to take this further.

#### **Anti-social Behaviour, Crime and Policing Act 2014**

- 4.9 The legislation below was not part of the panel discussions but was issued shortly after the meetings concluded. It was highlighted by a Home Office minister in a Westminster Hall debate on 8 April 2014 on the impact of 'party houses' in Poole in Dorset.

The Anti-social Behaviour, Crime and Policing Act 2014 will be enforced from October 2014.<sup>14</sup> Various anti-social behaviours are covered in the Act but the section that could be applied to anti-social behaviour coming from within short-term holiday lets is covered in different ways.

Councils and police forces have the same objective—to ensure that the communities they serve are protected and safe—and by working effectively together they can achieve that. The new powers encourage agencies to solve problems together to ensure that victims and communities get the best results.<sup>15</sup>

- 4.10 The current closure powers do not make it possible to close non-licensed premises out of court, so police and councils have been limited in what they could do. However under the new closure power if a police or council officer has reason to believe that the use of premises has resulted or might result in nuisance to members of the public, the premises can be closed immediately. Those who habitually

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<sup>13</sup> Inspector Gareth Davies, Safe in the City Policing Team, Sussex Police 20 February 2014

<sup>14</sup> <http://asbhelp.co.uk/what-the-law-says/>

<sup>15</sup> Information from Hansard, 8 Apr 2014 : Column 24WH

reside in the premises cannot be excluded for the first 48 hours, but members of the holiday group would not fall within that definition and so could be excluded completely from the property. The power can be used preventively. Where the issue persists, the council or police force could apply to have the closure extended for up to six months.<sup>16</sup>

- 4.11 There will also be a community protection notice available to deal with persistent, unreasonable behaviour that has a detrimental effect on quality of life. The definition of “persistent” is open to the interpretation of the council or police officer. For instance, if the issue is loud music, if an officer had asked people to turn it down and they had not done so, it would be perfectly reasonable to consider that persistent. First, a written warning has to be issued to someone, explaining what the issue is. Once they have been given sufficient time to change the behaviour, which could be minutes in the case of turning down loud music, a community protection notice can be issued forcing them to comply with the request. If they do not, they commit an offence and can be arrested. The community protection notice could be used against the home owner or agency who was allowing the people to act antisocially.

#### **Summary of current statutory powers**

- 4.12 To sum up, there are various powers currently available to the local authority, fire services and police when they receive reports of noise nuisance or other anti-social behaviour, although some residents might query whether the powers are adequate. Through Environmental health, ongoing noise complaints can be monitored or acted upon and in one case, resulted in the property being closed down. There is leeway within planning legislation for enforcement action to be taken against a property in certain circumstances, although this has not happened to date.

There are also the local authority’s existing legal powers and the forthcoming Anti-social Behaviour, Crime and Policing Act with enhanced powers. The Fire Authority has the power to request immediate fire safety steps are implemented, and can close a property if it feels that health and safety is at risk.

## **5 Local Businesses**

- 5.1 The panel wanted to probe what impact short-term holiday lets have on other businesses including hoteliers. They spoke to a representative of

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<sup>16</sup> Information from Hansard, 8 Apr 2014 : Column 23WH



the Brighton Hotelier's Association, as well as to VisitBrighton, the official tourism arm for the city.

- 5.2 The Brighton and Hove Hotel Association's spokesperson, Mark Jones, told the panel about the negative effect that holiday lets of this nature was having on hotels and the wider tourism industry.<sup>17</sup> He felt that the larger groups of hens and stags that stayed in holiday lets often acted in a way that portrayed the city in a negative light, and might put off some hotel guests from returning to the city. A lot of hoteliers had chosen not to accommodate hen or stag parties due to the ensuing room damage and ongoing costs. This had acted to restrict the number of hen and stag groups in the city but since the growing holiday let market, the number of hen and stag parties had escalated, with ensuing anti-social behaviour.
- 5.3 The panel heard that the accommodation market was carefully balanced in order to keep a high quality offer. By bringing in more, potentially lower quality, accommodation types, this did not necessarily attract more guests to the city but would mean that hotels, B&Bs and holiday lets would be fighting for a smaller share of the same market. The Hotel Association had been asking Brighton & Hove City Council to act to minimise the holiday let market for some time.
- 5.4 Mr Jones also said that hotels had to abide by a huge range of statutory health and safety and environmental health legislation, which they accepted as part of their business operation. They felt that short-term holiday let operators did not have the same restrictions or safety requirements. (When the operators spoke to the panel, they assured the panel that they did abide by all necessary health and safety and other legislation.)

### **VisitBrighton**

- 5.5 The panel heard from VisitBrighton, which is Brighton & Hove City Council's official tourism arm. They heard that the self-catering market was a very important part of the accommodation offer in Brighton & Hove. 8% of overnight visitors stayed in non-serviced accommodation. Almost 10% of international overnight visitors stayed in non-serviced accommodation<sup>18</sup>.

VisitBrighton has a partnership approach with accommodation providers in the city; there are 17 self-catering partners involved including Crown Gardens. Partners pay an annual fee, which is re-invested in the city. They can refer visitors to the approved premises but it will be up to the individual visitor where they choose to stay.

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<sup>17</sup> Mark Jones, panel meeting 13 February 2014

<sup>18</sup> John Carmichael, Visit Brighton. 13 February 2014

- 5.6 VisitBrighton said that they did not use the terms '*party town*' or '*hedonistic*' in their marketing although they do promote the night-time economy as well as the cultural/ eating/ drinking aspects of visiting Brighton and Hove. This has a big economic impact; on average an overnight visitor will spend £125-£150 in 24 hours, whilst a day visitor will spend £35-40.

### **The Economic Value of the Holiday Let Businesses**

- 5.7 One of the larger short-term holiday let operators, Brighton Holiday Homes (BHH), spoke to the panel about the economic impact of their business.

He told the panel that his figures show that every summer weekend, £300,000 goes back into the local economy from the spend from their residents. This can be extended to extra income throughout the year. Neil Stonehill of BHH said that his staff wages bill for last year was well in excess of £250,000 and will be higher this year. He feels a sense of pride that his organisation is in a position to create really good jobs with good salaries. There is also considerable income for the cleaning company, who have a full time staff of 16 with extra people taken on in summer. In addition there are handymen, plumbers etc who all benefit from BHH's business.<sup>19</sup>

The panel was also told that the short-term holiday let operators can also organise activities for the hen or stag parties when requested. This also generates significant income for local businesses. They ensure that they use businesses, who are happy to accommodate hen or stag parties to minimise disruption and inconvenience.

- 5.8 It could be considered reasonable to assume that other holiday let operators are similarly successful in generating income and supporting local businesses. The panel is keen to support responsible local businesses in their endeavours.

BHRA's own unaudited calculation estimates indicated that the market could possibly generate over £18 million to the city's economic activity:

Total large group holiday rentals in Brighton & Hove 106  
Average number of large group holiday guests per weekend (average 12 guests) 1272  
Average spend per individual (£300) £300.00  
Average total weekly income brought to Brighton economy £381,600.00  
Average total annual income brought to Brighton economy (based on 48 weeks) £18,316,800.00<sup>20</sup>

### **Holiday Let Operators**

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<sup>19</sup> Neil Stonehill, BHH, panel meeting 18 February 2014

<sup>20</sup> BHRA email

5.9 The panel was pleased to hear directly from many of the short-term holiday let operators catering for hen and stag groups in the city; one panel meeting was dedicated to listening to the industry, who responded honestly to the criticisms that they had heard. The panel heard from Brighton Holiday Homes, Crown Gardens, Citypad, Beatnik Breaks and several individual operators.<sup>21</sup>

5.10 Some of the key points they made were

- In the last year, Environmental Health had received 1862 noise complaints in total from general domestic houses and apartments in the Brighton area; 8 related to holiday lets, of any size or any website. Over a three-year period there were 30 complaints relating to all types of holiday lets. The operators commented that the establishment of the scrutiny panel could be interpreted, in their view, as a disproportionate response to a relatively small-scale problem although operators appreciate that it would not feel like a small scale problem to people affected.
- If people did not complain about noise or other nuisance, it was very difficult for agencies to take any action to address them
- A number of operators had privately run noise patrol services which responded to lower level complaints and more quickly than the council's own noise patrol service. They have authority to tell people politely but firmly to keep the noise down or risk the loss of their deposit; they can also be evicted immediately.
- The operators said that some of the complaints that the panel had heard about were historic; operators had learnt a lot from the early mistakes
- If people feel that they are being turned away from Brighton, it will have huge effects on jobs in the private tourism sector. Brighton & Hove cannot afford to be a dying seaside resort.
- The people who come to Brighton & Hove on hen weekends are typically in their late twenties, with a huge variety of jobs. You are much more likely to see local people drunk in the street rather than hen party guests.
- All responsible operators worked closely with ESFRS and carried out the necessary fire safety work.
- The holiday rental sector can complement the existing guest house provision as they largely accommodate different types of guests.

### **Positive steps to address anti-social behaviour**

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<sup>21</sup> Panel meeting 18 February 2014

5.11 The operators told the panel about the steps that they were already taking to pre-empt complaints or potential anti-social behaviour. These included

- Running their own noise patrol team, which attends all properties in rotation. The patrol logs any noise from other sources eg student parties, as holiday lets can often be blamed for noise from other properties.
- Guests are told that parties are not allowed and that they may be ejected if this rule is broken
- installing CCTV cameras and microphones outside the property as guests are not allowed to gather outside.
- Keeping the [significant] deposit if there are complaints; this has happened once in the year that the property has been operating, they claimed that it was not a stag or hen group
- Giving neighbours an emergency contact number and encouraging them to call as soon as possible
- Carrying out soundproofing including installing secondary walls to minimise noise disruption
- Operators said that they regularly turned down properties that were in unsuitable locations, eg not in a city centre or if they had a garden. They actively discourage potential landlords with a property in an area which they think would cause a problem to neighbours

### **Brighton and Hove Holiday Rental Association**

5.12 The panel was encouraged to hear that, prompted by the scrutiny panel's investigations, a local trade association, the Brighton and Hove Holiday Rental Association (BHRA) had been formed. This was doubly welcome since, at the outset the panel stated that it hoped for the formation of a responsible local trade association in the city, which would promote 'gold standards' for individuals and companies managing holiday lets. It is very unusual that a scrutiny panel's key stated aim was achieved before its work began.

This will be an opportunity for operators to share best practice and agree common guidelines, which should achieve the 'gold standard' for operators that panel members were looking for and to demonstrate that they can curb some of the worst excesses that prompt complaints from neighbours to these properties.

5.13 The operators who have set up the association are certain that they are best placed to oversee and monitor their own industry, and believe that

they can promote best practice from inside the industry rather than having something imposed on them. BHRA will be a self-regulating body with a board overseeing it; they welcome the opportunity to address any complaints themselves.

BHRA's intention is that if you follow the guidance set out, your holiday rental properties should not cause any problems for neighbours. They felt that problems tend to be caused by the rogue properties and the grey market, rather than responsible operators.

- 5.14 BHRA hopes to work with VisitBrighton and other bodies to promote their businesses and encourage visitors to stay in responsibly managed accommodation.
- 5.15 Since the panel has finished its public meetings, BHRA have set up a website (<http://brightonholidayrentals.org/>) which they said that they will be launching soon. There will be advice on there for potential operators and current members on best practice. Crucially from a resident point of view there will be a search engine where residents can search to see whether a certain property falls under BHRA's remit which means that BHRA can be alerted straight away if there is a problem. The website also gives advice about who to contact if the property is not a BHRA operated one.
- 5.16 Panel members have welcomed the emergence of BHRA as a trade organisation, representing good practice in the city. There have been a few complaints about nuisance caused by short-term holiday lets since the panel meetings concluded; the panel is very pleased to see that BHRA has actively investigated these even when they have turned out not to be BHRA properties, to try and give advice to residents and operators. The panel hopes that this will continue in the future.
- 5.17 Questions remain over how those operators who are not in BHRA will be targeted, and the grey market in holiday lets. The panel hopes that BHRA will contact those operators who are not currently part of BHRA to encourage them to join or at the least to adopt the best practice guidelines.

### **Best Practice guidelines**

- 5.18 Brighton Holiday Rental Association has said that it will promote its gold standard guidelines to holiday rental operators in the city. The guidance is available on their website (currently draft form) at <http://brightonholidayrentals.org/BHRA-Guidelines.pdf> and covers key areas such as noise, rubbish removal, parking and fire risk.

It also outlines where the best location is for short-term holiday lets, gives advice as to what information operators should give to their guests, and how to manage the visit to benefit everyone.

The panel welcomes the guidance but believes that it could be strengthened in certain sections to reflect some of the concerns raised by residents. These concerns have already been detailed above, but include not knowing who to contact in case of disturbance, or not feeling that there is any value in making a complaint due to a perceived lack of action. Other concerns have been raised about the lack of information given to neighbours about a potential new holiday let being established.

The panel's recommendations largely centre around a need for enhanced two way communication between BHRA and those residents who live alongside their properties, so that the complaints and worries that have arisen in the past can be addressed at an early a stage as possible.

- 5.18a Consideration also needs to be given as to how BHRA will work with the council, police, fire service and the communication channels between all these organisations. There should be a protocol with the understanding that BHRA will immediately advise the council about any complaints received and action taken, so that the council can monitor the situation and call BHRA to account if it is deemed necessary.

As mentioned in 3.10 above, there are Joint Intelligence Meetings between East Sussex Fire and Rescue, Planning Enforcement, Neighbourhood Policing, and Community Safety Partnership. The panel would suggest that BHRA are asked to attend these if there are reservations about how they are managing their properties so that further steps can be considered.

### **The grey market**

- 5.19 The panel heard that as well as the BHRA members already mentioned, there is a 'grey market' in holiday rentals caused by private rentals operated through websites such as Air-bnb, part of the growth market in the sharing economy. Some of the properties are not regulated or may just be used on a short-term basis. There is potentially an issue where the properties are not fulfilling the health and safety aspects needed, although Air-bnb tells providers that they must comply with regulations.<sup>22</sup>

BHRA members have said that the so-called grey market properties can cause problems for the whole industry as they can be set up without any guidance, operate for a short time and then close again. The negative repercussions of any problems caused can have knock on effects for the more responsible operators.

- 5.20 One suggestion made by the operators and BHRA is that they could alert East Sussex Fire and Rescue Service and Brighton & Hove City

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<sup>22</sup> John Carmichael, Visit Brighton, panel meeting 13 February 2014

Council if they become aware of any larger holiday lets so that the necessary fire and safety audits can be carried out. In addition the owner can be encouraged to become a member of BHRA or adopt the gold standard to minimise disruption.<sup>23</sup> These steps might persuade some operators that it is too expensive to comply with regulations and cease operations.

## **Panel Conclusion and recommendations**

The aim at the start of the panel was to get a set of gold standards for short-term holiday lets and for a trade industry association to be established that might be able self-regulate effectively. With the establishment of Brighton and Hove Holiday Rental Association (BHRA), this has been achieved and is recognised as a positive outcome by the panel. This is a great position to move on from, and the recommendations that follow reflect the additional work that will enhance this.

The panel would much rather have a positive pro-active outcome from the panel rather than relying on existing and incoming legislation to address any anti-social behaviour. Nevertheless, it should be remembered that new legislation will be in force by October 2014 which is much more stringent than existing legal powers open to the police and local authorities and it will remain open to the council and other statutory services to use these powers if the situation warrants it.

Panel members appreciate that BHRA members and other operators in the city are individual businesses and do not fall under the council's jurisdiction. Their co-operation is therefore appreciated and welcomed.

The recommendations listed below are intended to enhance the existing arrangements put in place by BHRA. The aim is to balance out some of the concerns that residents have raised alongside BHRA's intention to provide a first class holiday rental service.

1. **Notifying neighbours of existing short-term holiday lets –**
  - a) BHRA must take active steps to notify all neighbours in writing that they are living near to a short-term holiday let. Information should be given to all properties that are likely to be affected by any disturbance, including those backing onto the holiday let or in the same street. BHRA should keep a record of who has been notified. This should be repeated annually.
  - b) This notification should clearly identify the property and give neighbours information about what guest behaviour is acceptable, the contact details of the private noise patrol and other contacts in

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<sup>23</sup> James Watts, Beatnik Breaks, panel meeting 18 February 2014

case of any disturbances. BHRA must ensure that they have a noise patrol in operation 24 hours a day during weekends and bank holidays.

- c) Noise patrols firms used must be British Standard compliant, use body or head cams to record all encounters and be SIA cleared and fully trained in conflict resolution. Written reports of incidents should be made within 24 hours.
- d) Noise patrol companies employed should use clearly identifiable vehicles and personnel should wear uniforms and carry identification with them at all times.
- e) Those who raise noise complaints should be provided with a copy of the incident report made to the operator by the professional noise patrol, so it is clearly understood that their concerns have been addressed.
- f) In hours of daylight, the noise patrol should always attempt to knock on the doors of neighbours that have raised noise issues to let them know that action has been taken and a report will be shared.
- g) In hours of darkness or very early in the morning, the patrol should post a card through the letterbox of the neighbours who raised the original noise complaint to let them know the patrol has attended and that an incident report will be forward to them within 48 hours.
- h) If BHRA receive complaints, these should be resolved in line with their agreed procedures. The council's Environmental Health team should also be notified about the nature of the complaint and the response made. If the council receives complaints directly, it should notify BHRA and let the resident know that it has done so.
- i) The panel recommends that where a clear breach involving noise and Anti-Social Behaviour has been identified prompting the forfeiture of a group's deposit, the operators should actively consider donating the deposit direct to the neighbours as compensation or to a local neighbourhood community group.
- j) The panel recommends that all noise patrol reports from operators should be routinely be posted onto the BHRA website to help build confidence and in the spirit of transparency.
- k) In addition to the leaflets , BHRA should attach a sign to the front of each of their properties with details of the operator and contact details of who to contact in case of disturbances; this should be a 24/7 service.



- l) The panel would encourage BHRA to complete its website as quickly as possible so that it can become active and useful.
- m) BHRA should promote their website as widely as possible, for the benefit of residents, guests and operators. The panel would like the website to list the street addresses of all BHRA properties to enable residents and statutory agencies to be able to easily check whether a property is operated by BHRA. This would help identify who to contact if there are any issues.

## **2. Notifying neighbours of new short-term holiday lets.**

- a) The panel heard that residents were aggrieved about the lack of notification if a new short-term holiday let was opened up in their neighbourhood. Whilst there is currently no statutory duty to consult with residents before establishing a short-term holiday let, BHRA should encourage potential holiday let operators to consult with and work with neighbours, before converting accommodation into holiday rental accommodation in order to open up lines of communication
- b) Operators should be encouraged to actively listen to neighbours' concerns and suggestions about how to minimise disruption.
- c) In areas where there is a Local Area Team or other community forum, BHRA should engage with the group to notify them about the forthcoming holiday let and address any concerns about anti-social behaviour that might be raised.

## **3. Working with the council and VisitBrighton**

- a) BHRA members should talk to VisitBrighton about how BHRA can work with the tourism body for the city. In turn, VisitBrighton should seek to work with BHRA to promote their positive practice and make any further suggestions that might arise in the future.
- b) There should be links between the BHRA website, the VisitBrighton website and Brighton and Hove City Council's website.

## **4. Monitoring and overseeing**

- a) As a way of monitoring the situation, in the instance of any complaints being received by statutory agencies, eg noise, refuse, fire safety, the statutory agencies call BHRA into the regular Joint Intelligence Meetings straight away and consider investigating the properties to take any action necessary. In this

way, we can encourage the operators to be self-monitoring but retain an oversight and step in as soon as a problem arises.

- b) The panel recommends that the council reserves the right to review the arrangements and bring the monitoring in-house if it is not deemed satisfactory. The first monitoring should take place after six months and the second should not take longer than 12 months after the report is agreed. It will be for council officers including Environmental Health and Planning Enforcement, and East Sussex Fire and Rescue Service and the Police to determine together with BHRA whether this is necessary.