



# CONSIDERATE NIGHTLY LETTING

A Westminster City Council Best Practice Charter in Association with STAA

## Introduction

Westminster's Nightly Letting Sector (also known as Short Term Lettings) is vibrant and growing following the recent success of online platforms (such as Airbnb, UndertheDoormat, HomeAway etc.), whose services make it possible to let properties at short notice and for a few weeks or just a few days at a time. Westminster is proud to be the central location for this exciting, fast paced and lucrative market, and we recognise the significant positive value it brings to our City. Homeowners are able to benefit from a new source of income whilst presenting holidaymakers and business travellers with an affordable and comfortable alternative to hotels and hostels.

We know that most homeowners 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 impact adversely on the quality of life and comfort of neighbouring residents. Westminster City Council in partnership with the Short-Term Accommodation Association (STAA) are committed to tackling these common industry challenges and are working together towards a stable and supportive regulatory environment that promotes the UK as a global leader in the provision of short-let accommodation. In doing so we have developed this Considerate Nightly Letting Charter which defines the parameters of the law, and sets out a gold best practice standard to which all freeholders, property owners, managing agents, and hosts engaging in this activity have a shared responsibility to uphold.

## Considerate Nightly Letting Best Practice

*If you are the property owner or managing agent (host) you should...*

- Ensure you meet all legal requirements for short-term 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.
- Provide an emergency contact to your guests, reachable 24x7.

- Provide a Code of Conduct for your guests, which should include and promote mindfulness of neighbours. For example, remind guests not to knock on neighbour's doors or buzz them to provide access to the communal areas, and to keep noise to a minimum, particularly outside of daytime hours.
- Ensure you relay your building's common area rules to your guest
- Notify your neighbours that you will have guests, and provide them with a contact number should any issues arise
- Ensure a 'no party policy' 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 3<sup>rd</sup> party liability insurance
- Clearly describe rubbish collection dates and recycling policy to guests

*If you are the freeholder or building manager, you should...*

- Ensure you meet all health and safety legal requirements
- Proactively ensure that property owners meet all their legal obligations by maintaining a register of properties engaging in Short-term Letting within the building
- Develop or adopt a protocol that sets out clear guidelines for hosts to follow (See the STAA best practice building protocol which we recommend as the standard)
- Report any known unlawful letting to Westminster Council
- Pursue any clear breach of lease where known, while keeping in mind that any legal fees must be in the interest of all leaseholders to spend common funds.

## Why these guidelines are so important

Housing is in short supply in Westminster and therefore taking properties off the long-let market solely to let to tourists or business travellers all year round, has an impact on our overall housing availability for local people.

Neighbours and the community affected by irresponsible short-lets also report that they can be exposed to:

- 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
- repeated requests from guests for access to the building through intercoms
- fire risks through suitcases blocking entrances and doorways
- sleep deprivation from homes being used as 'party venues'

When properly managed short-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

## The Law

If you are looking to let your home on a short-term 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 are the property owner and eligible to pay the council tax
- You are the tenant who is eligible to pay the council tax and has the permission of the property owner
- You are a leaseholder whose lease does not expressly forbid this activity
- You are the managing agent acting on behalf of the property owner who pays the council tax
- You are not the council tax payer but have been granted planning permission to do so

You will also need to notify or request permission from the following depending on the terms of your agreements:

- Your insurer
- Your freeholder if you are a leaseholder
- Your mortgage provider if you hold a mortgage
- Your landlord if you are a tenant (this includes council tenants, housing association tenants and tenants who rent from a private landlord).

### Length of lets

The Law<sup>1</sup> only permits short-term letting of properties for a cumulative total of 90 nights during a calendar year. If you want to let out your home for more than 90 nights in a single calendar year you must have planning permission, which can only be obtained via submission of a planning application. The submission of such an application does not imply that planning permission will necessarily be granted as each application must be determined on its individual merits having regard to relevant development plan policies and all other material considerations. The cost to make a planning application in Westminster is £462. It is not permissible to exceed the 90-night limit unless planning permission has been granted and failure to obtain permission may result in us taking enforcement action. (Please note that If you let out a house, a flat, or a room for an agreed period of more than 90 nights in a row to a single person or to people who live together as one household, then you are a residential landlord and subject to different conditions set out in [landlord and tenant legislation](#)). Any let of more than 90 days is not considered a short-let and you should refer to landlord and tenant legislation for guidance.

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<sup>1</sup> Section 44 of the Deregulation Act amends Section 25 of the Greater London Council (General Powers) Act 1973 and permits the short term letting of properties subject to conditions set out in Section 25A (2) (a) and (b), which limits the short term let use to a total of 90 nights in any one calendar year; and in Section 25A (3) (a) and (b), which prevents the provision of a property for short -term letting, for any period, by anyone other than a person liable to pay Council Tax.

### 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 will invalidate any landlord's insurance cover you have. It is a legal requirement that a risk assessment is undertaken to identify hazards that may cause harm and what action is required to reduce the risk. It is a good idea to keep a written record of this.

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

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 5 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.

### 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 ASB, 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 a fine of up to £20,000 for businesses or £2,500.00 for individuals. 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 6 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 black bins within

the City. 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.

### 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. Depending on the amount you earn from hosting, it may need to be declared to HM Revenue & Customs. You can find details on the sharing economy [tax incentives](#) and how to [correctly account for tax](#) on the HMRC website.

## The potential pitfalls of non-compliance

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| <b>Breaching the 90-night limit or letting the property when you are not the Council Tax payer</b> | <ul style="list-style-type: none"><li>• Enforcement action which if not complied with may result in criminal proceedings, an unlimited fine, and/or a Local Land Charges record which could make the future sale or financing of the property more difficult.</li></ul>  |
| <b>Failing to effectively control guest behaviour</b>  | <ul style="list-style-type: none"><li>• Breach of lease covenants</li><li>• Enforcement action</li><li>• Closure orders</li></ul>  |
| <b>Failing to adhere to health and safety regulations</b>  | <ul style="list-style-type: none"><li>• Guests and Neighbours put at risk of serious injury or death</li><li>• Penalty fines</li><li>• Enforcement Action and criminal proceedings</li><li>• Invalidation of insurance policies</li><li>• Breach of mortgage terms</li><li>• Breach of lease covenants</li></ul> |

## Contact Us

Westminster City Council has a dedicated team of Nightly Let Officers. If you would like more advice, or if you have a concern please contact the team at:

[planningenforcementteam@westminster.gov.uk](mailto:planningenforcementteam@westminster.gov.uk)