



# **The Rental Revolution: What the Sharing Economy is doing to the PRS?**

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Residential Landlords Association

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## **About the Residential Landlords Association**

The Residential Landlords Association represents the interests of landlords in the private rented sector (PRS) across England and Wales. With over 23,000 subscribing members, and an additional 16,000 registered guests who engage regularly with the association, the RLA is the leading voice of private landlords. Combined, they manage almost half a million properties.

The RLA provides support and advice to members, and seeks to raise standards in the PRS through our code of conduct, training and accreditation and the provision of guidance and updates on legislation affecting the sector. Many of the RLA's resources are available free to non-member landlords and tenants.

The association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of Government, to support our mission of making renting better.

## **About the Authors**

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## Executive Summary

As the way in which we do business changes, the 'sharing economy' is on the rise in the UK. More and more people are now using sites such as Airbnb to rent out homes as an alternative to staying in a hotel, with more than 33,000 listings in London alone.

This research report explores the extent of the use of Airbnb and its impact on the private rented sector. Two sources of data are presented. Firstly, to understand the use of Airbnb in London we conducted an analysis of Airbnb listings from insideairbnb.com. Secondly, we used a survey of landlords to explore their experiences of tenants who had sub-let through Airbnb or a similar platform.

The findings highlight the negative impact of this technological revolution. From 33,715 Airbnb listings in London, 65% were available for more than 90 days per year. In addition, 64% of entire homes/apartment listings were available for more than 90 days per year (11,296 listings), with an estimated annual revenue of £144,227,328.

Not only is this unlawful in relation to the current planning regulations, it is removing housing from the market, while individuals are capitalising on the lack of housing supply. A more striking finding was that 39% of entire homes/apartments were multi-listings (where the hosts have more than one listing), and 78% of these were available for more than 90 days. This further confirms the way in which businesses are capitalising on this change and preventing those in need of homes from securing a place to live.

Furthermore, from our survey of landlords we identified that 15% had experienced their tenants sub-letting properties without permission on Airbnb or a similar platform. Of those properties that were affected, 48% were in London.

The majority of landlords (34%) discovered what was happening when they visited the property, 23% when complaints were made by neighbours and 18% by checking online. Others discovered what was happening when contacted by a sub-letter or the police.

Many of the landlords raised concerns over the increasing costs of repairs and the legal implications of illegal sub-letting, which could leave them in breach of mortgage conditions.

The case studies of landlords included in section 3 of this report demonstrate the serious consequences of tenants sub-letting without permission, with landlords losing thousands of pounds to lost rent and repair bills.

We at the RLA are calling on the Government and the London Mayor to review the use of Airbnb and other similar platforms and the impact on housing affordability and landlords. The sharing economy is allowing individuals to profit on the long term use of property on

Airbnb and is removing a significant amount of homes from the market. There are also concerns worldwide over safety and the potential for fraud when using these platforms.

Airbnb itself takes no responsibility for any of the illicit use of its services. What is clear is that this is a significant issue that warrants further action, and we recommend an assessment of the impact on housing affordability and rents in London, education of tenants on the issue of sub-letting, and education of landlords on the issues surrounding the sharing economy and breaches of licensing, mortgages, and insurance.

## Introduction

Over the last decade there has been a technological and social revolution in the way we purchase and pay for goods, with a transformational change towards sharing products (Brand & Rocchi, 2011). One particular success story has been Airbnb, which has transformed the travel and short term rental industry.

The seeds of the idea were sown in San Francisco in 2007, when two graduates advertised their apartment to conference delegates seeking to avoid high hotel costs (Guttentag, 2015). Within two years, Airbnb was launched and has grown rapidly worldwide with millions of nights booked in shared rooms and whole apartments (Botsman & Rogers, 2010). Airbnb (2016a) itself claims that there have been over 60 million guests who have used its platform worldwide.

Airbnb (2016a) describes itself as “a trusted community marketplace for people to list, discover, and book unique accommodation around the world”.

Airbnb does not employ the ‘hosts’ or own the apartments/houses offered by them. It is an online platform that allows home owners to offer spare rooms or their entire property as a short-term holiday let, and collects a small percentage of the money paid (Oskam & Boswijk, 2016). These properties range from “a flat for a night, a castle for a week, or a villa for a month ... in more than 34,000 cities and 191 countries” (Airbnb, 2016a).

Hosts are able to advertise three different types of listing; shared rooms, private rooms, and entire homes/apartments (Airbnb, 2016b).

In shared rooms guests share their bedroom with other travellers, working in a similar way to a hostel. In private rooms the guest has their own bedroom but shares other spaces such as bathroom and kitchen. Travellers can also rent entire homes/apartments, offering “a home away from home with complete privacy” (Airbnb, 2016b).

Guttentag (2015) reports that Airbnb claimed in 2012 that 57% of listings were entire homes/apartments. Airbnb does not generally release data publicly, yet in the past it has had to comply with legal requests for data from the New York States Attorney (Schneiderman, 2014). To get information we have searched other sites, such as [insideairbnb.com](http://insideairbnb.com), where data has been pulled from the Airbnb listings for particular cities (InsideAirbnb, 2016a).

The rise of Airbnb and other similar platforms has caused significant disruption to the tourist accommodation economy worldwide (Bock, 2015). It can be seen as a positive force, driving change to benefit consumers and reduce unnecessary regulation (Edelman & Geradin, 2016). However, there have been concerns worldwide about safety, the provision of

services to the disabled and other vulnerable groups and the loss of affordable housing from the market (Schneiderman, 2014; Streitfeld, 2014). In New York, Schneiderman (2014, p. 2) analysed Airbnb bookings between 2010 and 2014 and found:

- Short-term rentals experienced explosive growth, with revenue expected to exceed \$282 million
- Most short-term rentals booked in New York violated the law
- Commercial users accounted for a disproportionate share of private short-term rentals by volume and revenue
- Private short-term rentals displaced long-term housing in thousands of apartments

The findings of the New York report demonstrate the impact of this transformational change in tourist accommodation, especially in the removal of available housing for long-term renters. However, this problem is not confined to New York.

It was recently reported that in Berlin Airbnb and other online platforms have reduced the amount of properties available to rent long-term, leading to increased demand and rental prices (Khurshid, 2016). As a result, Berlin has banned the renting of entire apartments through online short-term rental sites (Payton, 2016).

Paris is another city facing the pressure caused by the popularity of Airbnb. Paris is the most popular city on Airbnb with around 60,000 listings (Coldwell, 2015b). Airbnb has now come under pressure from Paris City Hall to warn hosts that are operating illegally to stem the detrimental impact on the availability of housing in the city (Coldwell, 2016).

While the use of Airbnb has grown in London since its inception, it was unlawful until May 26<sup>th</sup> 2015 due to the *Greater London Council (General Powers) Act 1973*, s25 stipulating that the use of residential property for lets of less than 90 consecutive nights was a change of use which required planning permission (Coldwell, 2015a; InsideAirbnb, 2016b).

However, anecdotal evidence has emerged of tenants routinely sub-letting rooms and entire properties on Airbnb in London, potentially removing affordable housing from the market (Ferguson, 2016; Residential Landlord Association, 2016).

Airbnb has also been used to commit fraud against prospective tenants, with guests renting out a property on Airbnb and then posing as landlords/letting agents to 'fleece' tenants out of deposit and rent (Collinson, 2014).

Nevertheless, in the Spring Budget of 2016 George Osborne announced a tax break of £1,000 to support the sharing economy (Hickey, 2016), potentially supporting the increase in the use of Airbnb by tenants and home-owners. It remains uncertain whether all those making profits from Airbnb are in fact paying their full measure of tax.

Airbnb currently refuses to accept responsibility for any form of illicit use of its services. It requires those advertising on its platform to warrant that “any Listing you post and the booking of, or a Guest’s stay at, an Accommodation in a Listing you post (i) will not breach any agreements you have entered into with any third parties, such as homeowners’ association, condominium, lease or rental agreements, and (ii) will (a) be in compliance with all applicable laws”. While it makes no specific efforts to check that advertisers are complying with this warranty it clearly considers that this gives it complete cover against any legal action.

The aim of this report is to collect quantitative and qualitative data to understand and explore the full extent of the use of Airbnb in London and tenants sub-letting the property through Airbnb or similar sites. In order to address these aims, a mixed-method study was designed with two phases, firstly, data from insideairbnb.com was analysed for London to provide an overview of the use of Airbnb in London. The findings of this phase are reported in section 1. The second phase of this study utilised a mixed-methods survey design to explore the experiences of landlords who have discovered their tenants subletting online. This survey was distributed to landlords by email and social media over the period of 2 weeks. The findings of the survey are reported in section 1. A number of case studies were developed from the responses to the survey and are reported in section 3. Section 4 sets out the legal position and potential risks to landlords.

## Section 1: Analysis of Airbnb Listings

- There are an estimated 33,715 Airbnb listings in London (Feb 2016, source: insideairbnb.com)
  - Estimated 17,625 entire property/flat listings
  - Estimated 15,607 private room listings
  - Estimated 483 shared room listings
- 52.3% of listings are entire property/flat listings
- 46.3% of listings are private room listings
- 1.4% of listings are shared room listings
- Average price per night (all listings) is £93
  - Entire homes/apartments: £137 per night
  - Private room: £51 per night
  - Shared rooms: £35 per night
- Estimated occupancy is 89 nights per year for all listings
  - Entire homes/apartments: 91 nights per year
  - Private room: 87 nights per year
  - Shared room: 82 nights per year
- Estimated income per month is £639 (all listings)
  - Entire homes/apartments: £918 per month
  - Private room: £339 per month
  - Shared room: £179 per month
- Availability
  - 65.3% of listings are available for more than 90 days per year (22,012 listings with high availability)
    - 64.1% of entire homes/apartments are available for more than 90 days per year (11,296 listings with high availability)
    - 66.4% of private rooms are available for more than 90 days per year (10,360 listings with high availability)
    - 73.7% of shared rooms are available for more than 90 days per year (356 listings with high availability)
- Listings per host
  - 37.8% of listings are multi-listings (where hosts have more than one listing – a total of 12,744)
    - 39.3% of entire homes/apartments are multi-listings (6,934 listings)
    - 35.7% of private rooms are multi-listings (5,576 listings)
    - 48.4% of shared rooms are multi-listings (234 listings)
  - 2,803 listings are where hosts have two or more other listings (8.31%)

- Total revenue per year:
  - Estimated 24.5% occupancy (all 33,715 listings): £258,526,620
  - Only including those recent/frequently booked (13,419 listings – estimated 51.3% occupancy): £212,879,016
  - Revenue for entire home/flat:
    - Estimated 25% occupancy (all 17,625 listings): £194,157,000
    - Only including those recent/frequently booked (7,218 listings – estimated 50.9% occupancy): £159,373,440
    - Only including those with high availability (11,296 listings, 28% occupancy, available for more than 90 days per year), estimated revenue: £144,227,328
- Entire home/flat listing analysis
  - 6,934 entire home/flat listings are multi-listings
    - Of these, 5,410 listings (78% of these listings) have high availability (available for more than 90 days per year)

## Section 2: Survey of Landlords

Total number of responses: **713**

- 15% of landlords reported that they had experienced tenants advertising a property or room on Airbnb or other similar site without asking for permission
- Most of the properties were located in London (48%), followed by the North West (9%) and the South East (9%)
- The principle reason for landlords finding out about this activity was through visiting the property (34% of landlords)
- The next reason was that neighbours had reported or complained about the sub-letting (23% of landlords)
- 18% of landlords found the sub-letting adverts on Airbnb or other sites
- This was followed by the prospective sub-tenant contacting the landlord (7% of landlords)
- 32% of landlords evicted their tenant as a result of the sub-letting
- A large number of respondents highlighted concerns over the insurance issues from tenants sub-letting the property and how sub-letters/guests would not be protected if there was an incident. For example, one landlord commented: *“I feel it should be widely advertised that with invalid insurance tenants are not protected should an incident occur.”*
- Furthermore, the majority of landlords raised concerns over the eligibility of the sub-tenant/guest to rent, as the landlords were unable to ‘check out’ prospective tenants, with concerns over the recent ‘Right to Rent’ legislation. Landlords also feared that criminals could be using their property without a record of them staying there.
- Landlords reported that tenants sub-letting the property on Airbnb had seen increased damages, increased repair costs, tenants refusing to continue pay rent when confronted and tenants even making significant alterations to the property to

allow sub-letting. For example: *“To facilitate his illegal letting he made changes to the property. As soon as I started taking action against the tenant he stopped paying rent. The action took four months and ending up costing me around £7,000 in damages and lost rent.”*

- Landlords further raised concerns over tenants using these sites to ‘scam’ prospective tenants/guests, as discussed by one landlord: *“He [the tenant] told all the people who answered his ad that he was the owner of my house. They wouldn’t have known any different. They lost all their money: Two months’ rent in advance and one month’s rent.”*
- Landlords were also fearful of the legal implications of this activity, with many raising concerns over HMO licensing. One landlord said: *“It is unbelievable that it is always the landlord to blame. I rented a house to two people and I had eight in total, and the council suspected that I had an illegal HMO. Really nothing but stress and problems to remove the tenants, with the house left as a wreck.”* A further landlord said: *“It could put me in contravention of Landlord Licensing regulations, cost me money as well as my reputation, and potentially my livelihood. In the case of my one-bed flat, the rogue tenant overcrowded the property by having whole families stay in the bedroom while he, his girlfriend and baby kipped down in the living room.”*

## Section 3: Landlord Case Studies

***Please note: All names changed to protect the identity of the landlord. These case studies are derived from the responses provided to the survey of landlords.***

### Case 1: David

Property Location: London

David recently experienced a tenant sub-letting the property through Airbnb. In this particular instance, David only realised that the sub-letting was occurring when he visited the property for an inspection and discovered the tenant had converted the living room into a bedroom. David was forced to start the eviction process, and contacted the RLA for advice. In conjunction with advice and support from TDS, David was able to claim losses due to early eviction from the deposit even though the tenant, who was clearly a seasoned sub-letter, had to be convinced that the landlord was legally able to do so.

### Case 2: Mark

Property Location: North West of England

Mark recently experienced tenants sub-letting. In this instance, the tenant had abandoned the property owing rent and a sub-let tenant was residing in the property. Mark allowed the tenant to continue living there until he found another place. However, he [the sub-tenant] left the place in a 'disgusting' state and told him that he was lucky as he could have made things worse for him.

### Case 3: Carly

Property Location: London

Carly found out that a tenant had been sub-letting the property on Airbnb. Carly only discovered this was occurring when the tenant refused her access. Once Carly was able to enter, she found that the tenant had made changes to the property. The landlord was forced to take action against the tenant, with an attempt to evict him. However, as soon as she started to take action, the tenant refused to pay anymore rent. In total the action took four months and ended up costing Carly around £7,000 in damages and lost rent.

#### Case 4: Lisa

Property Location: London

Lisa experienced a tenant sub-letting the property. This activity was brought to her attention by the neighbours, who said they had seen different people entering and exiting the apartment during the day who were not the usual tenants. Moreover, the tenant's sub-letting led to a couple of instances when police were called to deal with people in the apartment physically fighting over who should do various chores. Lisa was left no option but to evict the tenant with a Section 21 notice. During conversations with the tenant over this issue, the now ex-tenant boasted that he was making a lot of money sub-letting the two bedrooms and had put a bed in the lounge for himself. He even had business cards that he gave to Lisa. During the eviction process, the ex-tenant continued to argue with the landlord over the deposit being used to repair damages caused to the property through the sub-letting.

#### Case 5: Alexandra

Property Location: London

In the last 12 months, Alexandra experienced tenants sub-letting her property online through various sites including Gumtree. Alexandra only found this out when she was contacted by a prospective sub-tenant who had got the number from the neighbour. This prospective sub-tenant had turned up to collect keys for the property and four or five other groups of other sub-tenants had turned up at the same time. Alexandra discovered that the tenants had let the entire property and had taken a £1,500 deposit from each group of sub-let tenants. Alexandra had to contact the police, but the original tenant had vanished and left the property 'wrecked'.

The damage included: a key superglued into lock, locks missing off the inner doors, the backdoor forced off its hinges, a missing window, damaged furniture and general dirtiness. This was not the only problem Alexandra faced. The tenants were already in arrears with their rent, having missed a number of payments, and Alexandra discovered that one half of the couple had been using the garden shed to sell drugs. Overall, Alexandra was faced with a repair bill just over £7,000, rent arrears, and over 14 days of work to fix the damage to the property.

## Section 4: The Legal Position

Landlords whose tenants sub-let may find themselves in breach of a number of provisions. Many of these will also apply to the individual tenants who elect to sub-let.

### Planning

Outside Greater London there is no specific planning restriction on short letting and so there is little control on short term lets. Inside Greater London the *Greater London Council (General Powers) Act 1973* originally stated that letting of a property for less than 90 consecutive nights was a change of use for which planning permission would be needed. While not a criminal offence in itself, a breach of planning in this way would expose the person carrying it out to the risk of a planning enforcement notice being served. Breach of a planning enforcement notice is an offence punishable by fines and the recovery of money earned in breach of such an enforcement notice. The *Deregulation Act 2015, s44* relaxed the terms of the 1973 Act so that individuals could let property in which they were the council tax payer for periods of less than 90 consecutive nights provided that the short lets, taken in aggregate, did not amount to more than 90 nights in any one year. Therefore, this would allow occasional short letting but routine short letting would still be a breach of planning control.

### Lease Terms

It is normal for tenancy agreements as well as for the longer leases of flats and apartments to have restrictions prohibiting sub-letting and also prohibiting the use of the premises for business purposes. The Courts have long been of the view (see, for example *Caradon DC v Paton* (2000) 3 EGLR 57, CA) that routine short term letting may be a breach of the prohibition on sub-letting depending on the nature of the occupancy agreement but that such a use is always a breach on the prohibition against business use. This would put the individual tenant who was sub-letting in breach of his lease to the landlord. However, where the landlord was themselves a leaseholder, of a flat for example, the landlord would be in breach of his superior lease and would risk the loss of his property.

### Licensing

Properties in multiple occupation (known as Houses of Multiple Occupation or HMOs) are subject to additional controls as to standards and condition which do not apply to ordinary rental property. Breach of these is a criminal offence punishable by a fine which is

unlimited. Landlords who have tenants who choose to sub-let may find that the property is considered an HMO and that they are subject to the management requirements associated with them. Some local authorities have licensing requirements for HMOs and for other property types as well. These licences usually restrict the number of households in the property. Landlords may find that the unauthorised sub-letting by tenants means that they should have had a licence or that the terms of a licence they hold has been breached. While a landlord would have a defence to any such prosecution they will still face the added stress of a criminal investigation and the need to prove that they were unaware of the sub-letting by their tenant.

### **Insurance and Mortgages**

Most insurance and mortgages have prohibitions on business use. Any tenant using the property for short letting would put the landlord in breach of these clauses. This would mean that the insurance would be unlikely to cover damage to the property and there would be a risk of the landlord's mortgage lender terminating the loan agreement.

## Conclusion

The findings of this report clearly highlight the potential negative impacts of Airbnb and other similar online platforms. The analysis of the insideairbnb.com data demonstrated that around 64% of the entire homes/apartment listings were available for more than 90 days, with an estimated annual revenue of £144,227,328. This is a potential 11,296 homes that are unavailable on a long-term basis. Yet, this is currently unlawful in Greater London without planning permission.

Moreover, we argue that this could be used by criminal landlords to rent out properties and bypass essential regulations that protect tenants, such as protecting deposits or safety regulations.

It is imperative that the Mayor of London, the London Assembly and Borough Councils use all of their powers to protect tenants and ensure Airbnb is not misused, ensuring properties are available to those who need a home in London.

Our evidence shows 15% of landlords have experienced tenants sub-letting their property on Airbnb or other similar sites. Not only is this a breach of tenancy, this places unacceptable risk on the landlord, who could face significant issues with their mortgage lender or insurance company if there was a problem. Moreover, the sub-letting may infringe on HMO licencing and 'Right-to-Rent' checks, as landlords will not be able to check if a sub-tenant is legally able to rent the property.

Alongside this issue, this may lead to sub-tenants who turn to squatters, as evidenced in one of our case studies. It is overwhelmingly evident that there is extra cost being incurred by landlords due to the increased wear and tear on properties and that significant damages often need to be repaired.

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