

Airbnb and Guernsey property law: what homeowners and tenants need to know

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Reports in the media suggest there has been a large increase in the number of properties in the Island listed with online agents, with an increase of some 500% in the past four years. For those unfamiliar with online agents, like Airbnb, they allow people to offer short-term lodgings or home stays for a fee.

At the time of writing there are 114 Guernsey homes listed on Airbnb with an assorted range of accommodation on offer, from the panoramic views of a luxury modern villa with a pool and stunning sea views over the east coast to a private room in a house.

While the statistics are fantastic news for tourism, it is essential that any homeowners wishing to register with an online agent to offer short-term lodgings comply with any applicable restrictions.

Tourism Restrictions

Guernsey law regulates tourist accommodation and restrictions are in place for those intending to make accommodation available to visitors to the Island. In Guernsey, anyone providing sleeping accommodation, board, lodging or board and lodging for reward for any person for a period of three weeks or less must have a boarding permit. Boarding permits may be obtained from the Committee for Economic Development by contacting Marketing & Tourism.

Title Restrictions

Where the property is an apartment it is necessary to ensure the relevant estate schedule and any regulations have no restrictions on this type of letting. With online agents becoming more popular over recent years, these restrictions are likely to begin to appear more often in the legal documents for apartment blocks.

Lending Restrictions

Another consideration for homeowners is whether any mortgage or loan in place over the property contains restrictions on any form of letting or sharing occupation of the property without the lender's consent. These restrictions are very commonplace where a homebuyer's mortgage has been entered into (rather than a buy to let).

Failure to comply with the terms of the mortgage and obtain lender's consent risks triggering an event of default which would result in the lender being able to call in the loan.

Lease Restrictions

If you rent your property you need to consider whether you have the authority to sub-let the home or share a room within the property. Often residential leases in Guernsey contain restrictions over subletting, either absolutely or without first obtaining the prior written consent of your landlord.

Listing your property with an online agent in breach of the terms of your lease may have serious consequences which could potentially lead to the landlord seeking a court order for early termination of the lease, recovering possession of the property and a claim for damages to compensate for any loss they have suffered.

Planning Restrictions

If the use of your property changes from residential use class to tourist accommodation, otherwise known as 'visitor economy' use, then you may need to seek planning permission for a change of use. Whether a change of use has occurred will depend on the circumstances, but our Planning department has issued some guidance on what is considered minor or occasional use as guest accommodation:

- The primary use of the dwelling should remain as your home and, in addition, there must not be a 'material change of use' of the property having regard to the number of rooms in use for bed and breakfast purposes and comings and goings associated with this use.
- For example, the Planning department say, one bedroom in a three bedroom dwelling could be used for bed and breakfast accommodation without resulting in a material change of use, but use of two bedrooms and a separate sitting/dining room for bed and breakfast accommodation would require planning permission as this would amount to a material change of use.
- Your home can be used as a holiday let for up to a maximum of ten weeks over the course of a single year while you are away from the Island on holiday, on the proviso that no individual letting shall exceed 28 days' duration.

You should also take advice to ensure the building complies with local Building Regulations and the Guernsey Fire Service Law.

Insurance Considerations

In addition to the restrictions set out above it is necessary to inform your home and contents insurer that you are considering registering with an online agent to take on paying guests. Failure to seek prior consent of the insurer may risk the insurance company refusing to pay out if the property is being used against the terms of the insurance policy. You should also seek advice from your insurer about Public Liability Insurance cover as this may be required under Health & Safety legislation.

Food Hygiene

If the accommodation offering includes the provision or preparation of food you should also seek advice from Environmental Health. You may be required to engage with them to ensure the premises are fit to be used for the preparation of food, which people now know as the hygiene star rating system.

If you are looking to register with an online agent we would recommend you review any contracts and legal documents in respect of your property before doing so to understand what rules and restrictions may affect your ability to host. Where no restrictions prevent you from hosting guests through Airbnb, it is also worth remembering that any money you earn as a host is taxable income and should be declared.

The information and expressions of opinion which this article contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

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Meet the Author



Martyn Baudains

Partner

Guernsey

E: martyn.baudains@ogier.com

T: [+44 1481 752217](tel:+441481752217)

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