

18 June 2025

Dear

ATISN 24741 – 182-Day Threshold for Self-Catering Properties

Information requested

Thank you for your request which I received on 20 May. You referred to the decision by the Welsh Government to introduce a 182-day actual letting threshold for self-catering holiday accommodation in Wales, as set out in the Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022, effective from 1 April 2023.

You asked for:

1. Evidence and analysis supporting the 182-day threshold
 - Any internal or commissioned economic modelling, impact assessments, market analysis, or other data used to determine or justify the selection of 182 days as the minimum actual letting threshold.
 - Any documentation outlining alternatives considered (e.g. 105, 120, or 140 days) and the rationale for rejecting these thresholds or those used by Scotland and England (70 days).
2. Consultation summary and evaluation
 - A summary of consultation responses from the 2021 public consultation titled “Local taxes for second homes and self-catering accommodation”, specifically those relating to the occupancy thresholds.
 - Internal analysis, briefing notes, or reports showing how the consultation responses were assessed and factored into decision-making.
3. Ministerial and policy briefings
 - Copies of any briefings, submissions, or advice prepared for Ministers or Cabinet that explain the policy rationale for the 182-day threshold.
 - Notes or minutes from internal meetings in which the threshold was discussed, evaluated, or approved.
4. External correspondence
 - Any correspondence or formal representations between the Welsh Government and:
 - The Valuation Office Agency,
 - HMRC,
 - Professional Association of Self-Caterers UK (PASC UK),
 - Tourism or letting agencies, or
 - Local authorities,relating to the implementation, rationale, implications, or viability of the 182-day rule.
5. Legal consideration of reclassification impacts

- Any internal legal advice, analysis, or correspondence concerning whether the reclassification of self-catering properties as “domestic dwellings” under the 182-day threshold:
 - Was consistent with the statutory definitions in the Local Government Finance Act 1988, and
 - Took account of potential conflicts with HMRC classification of such properties as commercial businesses, or
 - Considered whether such reclassification would be consistent with the planning use class of the property (i.e. where no material change of use has occurred).

As stated in my letter of acknowledgement dated 23 May 2025, I have taken your request to relate to the period during which the decision was taken and brought into effect, between the consultation undertaken in 2021 and 1 April 2023.

Our response

A copy of the information I have decided to release is enclosed.

Point 1

The relevant evidence and analysis is set out in the Welsh Government’s Explanatory Memorandum and Regulatory Impact Assessment (RIA) for the legislation, which can be found at: <https://senedd.wales/media/40gf3dzt/sub-ld15122-em-e.pdf>.

This information has been available since it was published on 24 June 2022 and it has been drawn to the attention of stakeholders on several occasions. The then Minister for Finance and Local Government issued a written statement on the same date which referred to this information and the consultation process that informed the changes. That statement is available at: <https://www.gov.wales/written-statement-classification-self-catering-accommodation-local-tax-purposes>.

To inform the RIA, the Welsh Government requested the following:

- analysis of historic occupancy levels for a sample of self-catering properties listed for non-domestic rates, from the Valuation Office Agency; and
- data from responses to the Wales tourism accommodation occupancy surveys, from the third-party contractor appointed to administer the survey.

The results of these analyses are reflected in the RIA. Following a previous request for information, the underlying detail is also available in the public domain at (Query 4 refers): <https://www.gov.wales/atish16353>.

I have decided that documentation detailing alternative options considered (which takes the form of advice and briefings provided to Ministers) is exempt from disclosure under the following provisions of section 36 of the Freedom of Information Act 2000 and is, therefore, withheld:

- Section 36(2)(b)(i) – inhibiting the free and frank provision of advice;
- Section 36(2)(b)(ii) – inhibiting the free and frank exchange of views for the purposes of deliberation; and
- Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs.

The reasons for applying these exemptions are set out in full at Annex 1 to this letter.

Point 2

A summary of responses to the consultation is available at:

<https://www.gov.wales/local-taxes-second-homes-and-self-catering-accommodation>.

This information has been available since it was published on 1 March 2022 and it has been drawn to the attention of stakeholders on several occasions. The then Minister for Finance and Local Government issued a written statement on 2 March 2022 which referred to this information. That statement is available at:

<https://www.gov.wales/written-statement-summary-responses-consultation-local-taxes-second-homes-and-self-catering>.

I have decided that documentation showing how the consultation responses were factored into the decision (which takes the form of advice and briefings provided to Ministers) is exempt from disclosure under the following provisions of section 36 of the Freedom of Information Act 2000 and is, therefore, withheld:

- Section 36(2)(b)(i) – inhibiting the free and frank provision of advice;
- Section 36(2)(b)(ii) – inhibiting the free and frank exchange of views for the purposes of deliberation; and
- Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs.

The reasons for applying these exemptions are set out in full at Annex 1 to this letter.

Point 3

I have decided that the advice and briefings provided to Ministers are exempt from disclosure under the following provisions of section 36 of the Freedom of Information Act 2000 and is, therefore, withheld:

- Section 36(2)(b)(i) – inhibiting the free and frank provision of advice;
- Section 36(2)(b)(ii) – inhibiting the free and frank exchange of views for the purposes of deliberation; and

- Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs.

The reasons for applying these exemptions are set out in full at Annex 1 to this letter.

Point 4

Copies of the correspondence between the Welsh Government and the Valuation Office Agency are provided at Annex 2 to this letter.

The Welsh Government does not hold any exchanges of correspondence with HMRC on this matter.

Copies of the correspondence between the Welsh Government and the Professional Association of Self-Caterers UK (PASC UK) are provided at Annex 3 to this letter.

Copies of the correspondence between the Welsh Government and tourism or letting agencies are provided at Annex 4 to this letter. This includes correspondence from the Wales Tourism Alliance for which PASC UK is an additional signatory or copy recipient.

Copies of the correspondence between the Welsh Government and local authorities are provided at Annex 5 to this letter

The requested information contains third-party personal information which is exempt under section 40(2) (personal information) of the Freedom of Information Act 2000, on the basis that disclosure would contravene data protection principles. This exemption is absolute, and I am not required to consider any public interest arguments for and against disclosure. The requested information is, therefore, provided with third-party information excluded or redacted.

Point 5

I have decided that internal legal advice relating to the policy decision and legislation is exempt from disclosure under section 42(1) (legal professional privilege) of the Freedom of Information Act 2000 and is, therefore, withheld.

The reasons for applying this exemption are set out in full at Annex 1 to this letter.

Next steps

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,

CF10 3NQ

or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely,

Application of exemptions

The Freedom of information Act 2000 provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Copies of advice and briefings provided to Ministers in relation to Points 1, 2 and 3 of the request.	Section 36(2)(b)(i) – inhibiting the free and frank provision of advice
	Section 36(2)(b)(ii) – inhibiting the free and frank exchange of views for the purposes of deliberation
	Section 36(2)(c) – otherwise prejudice the effective conduct of public affairs
Legal advice	Section 42(1) – legal professional privilege

This Annex sets out the reasons for the engagement of sections 36(2)(b)(i), (b)(ii) and (c) (effective conduct of public affairs), and 42(1) (legal professional privilege) of the Freedom of Information Act 2000 and our subsequent consideration of the public interest test.

In order to satisfy the public interest test in relation to the exemptions, it is necessary to conclude that the public interest arguments in favour of withholding the information are sufficient to *outweigh* the public interest arguments in favour of release.

Engagement of section 36(2)(b)(i), (b)(ii) and (c) (effective conduct of public affairs)

The Welsh Government believes that advice and briefings provided to Ministers of the subject matter of the request should be exempt from disclosure, on the basis that its release would be likely to prejudice the effective conduct of public affairs. The section 36 exemption is qualified, which means that it is subject to a public interest test.

Public interest arguments in favour of disclosure

Policy matters related to this request have generated a large amount of attention from the tourism sector, media and general public. The Welsh Government recognises that there is a public interest in the openness and accountability of government, and that releasing the requested information may help the public gain a better understanding of the basis upon which Ministers reached their decision.

Public interest arguments in favour of withholding

Section 36(2)(b)(i) – would, or would be likely to, inhibit the free and frank provision of advice

The timely provision of information and advice to Ministers on topics and issues on a range of matters is a key role of officials. As part of the decision-making process, Ministers will expect comprehensive briefing which reflects the views of all those involved. There is a concern that public disclosure of the information would be likely to inhibit the free and frank provision of advice to Ministers during the early stages of policy development or at a future point in time, where a policy has been developed and a decision is sought.

Officials provide advice and exchange views in an open and frank way, and to explore various options. It is believed that disclosure of information would mean that future discussions would be likely to be inhibited, in that officials would be less candid and that would be likely to lead to less rigorous and in-depth exploration of options. This, in turn, would harm the Welsh Government's deliberations, resulting in less robust and effective outcomes.

The information captured by the request includes advice provided by officials to Ministers in the formulation of a change to local tax policy which has been controversial and remains a live policy issue. The public debate is still ongoing and some important information on the outcome of the policy implementation has only very recently become available for Ministers to consider.

It is important that officials feel able to provide free and frank advice to Ministers, which reflects a balanced and objective appraisal of potential options, without fear they will be exposed to public scrutiny. If officials feel inhibited when formulating advice on policy development, there is a real risk that the briefing provided to Ministers will be less comprehensive and objective, in that it will not reflect the full range and balance of issues which officials consider relevant.

Section 36(2)(b)(ii) – would, or would likely to, inhibit the free and frank exchange of views for the purposes of deliberation

During the deliberative process, it is important that those involved can express themselves openly, to enable a full consideration of different points of view before any final decision is reached. Ministers and officials expect to be able to express themselves openly so all views can be considered without fear they will be exposed to public scrutiny. As described above, the subject matter of this request relates to a live policy issue.

Some documents may reveal significantly different points of view regarding the work under consideration. The disclosure of this information would be likely to inhibit the open expression of views when formulating and implementing policy. For example, if officials can no longer be assured their views and recommendations will remain private, they may seek to be more circumspect and guarded in what they express. This would be likely to lead to a narrower range of discussions taking place between officials and Ministers.

Formulating and implementing local tax policy requires Ministerial agreement. If discussions are inhibited at the formative stage, there is a real risk that the issues explored with Ministers will be less comprehensive and objective, in that it will not reflect the full range of views and recommendations expressed by officials. As part of the decision-making process, Ministers will expect comprehensive briefing which reflects the views of all those involved in formulating and implementing policy. This will not be possible if, at any stage of the development or implementation of policy, officials have felt restricted in what they are able to express or recommend to Ministers.

Section 36(2)(c) – would otherwise prejudice the effective conduct of public affairs

The information captured by the request includes advice provided by officials to Ministers in the formulation of a change to local tax policy. If this information were to be released it would be likely to prejudice the effective conduct of public affairs, in that it could lead to confusion and ill-informed debate, public scrutiny, speculation or interpretation on the possible future policy direction.

As described above, the subject matter of this request relates to a live policy issue. Release would also be likely to negatively impact the ‘safe space’ environment which a government requires, in order to develop ideas or make decisions, consider live issues and reach conclusions away from external interference and distraction. The public debate on this matter is still ongoing and some important information on the outcome of the policy implementation has only very recently become available for Ministers to consider.

The release of information about the original policy development would be expected to undermine the ‘safe space’ for the ongoing consideration of the impacts arising from implementation and may affect future policy development. Erosion of this ‘safe space’ may lead to a loss of frankness and candour on behalf of officials if they believed their early policy considerations or opinions would be exposed to public scrutiny at an early stage which in turn could damage the quality of advice and lead to poorer decision making.

Balance of public interest test

Although there is a public interest in providing a clear understanding of the basis on which Ministers when reaching their decision, it is not necessary that advice provided during the policy development be made known to do so. The rationale for the decision and evidence that was available for consideration by Ministers is already in the public domain, as set out in response to Points 1 and 2 of the request.

The summary of responses to the consultation was published on 1 March 2022 and the policy intention was made clear through an announcement on 2 March 2022. When the legislation required to give effect to the policy decision was laid before the Senedd on 24 May 2022, it was accompanied by the relevant explanatory material and Regulatory Impact Assessment.

I consider that the public interest arguments to withhold the requested information outweigh the public interest arguments to release the information. I believe that the

information should be withheld on the basis that its release would be likely to prejudice the effective conduct of public affairs.

Engagement of section 42(1) (legal professional privilege)

This exemption states:

1. Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.

Legal professional privilege covers both confidential communications between lawyers and their clients made for the main purpose of seeking or giving legal advice (“advice privilege”), and confidential communications made for the purpose of providing or obtaining legal advice about proposed or contemplated litigation (“litigation privilege”). The information in question is legal advice which was provided to Welsh Government Ministers. We believe that advice privilege covers this information and that a claim to legal professional privilege could be maintained in legal proceedings in respect of it.

The section 42 exemption is qualified, which means that it is subject to a public interest test.

Public interest in favour of disclosing

The Welsh Government recognises that there is a public interest in the openness and accountability of government, and that releasing the requested information may help the public gain a better understanding of the basis upon which Ministers reached their decision.

Public interest in favour of withholding

The general public interest inherent in this exemption will always be strong due to the importance of the principle behind legal professional privilege: safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice. That there is a public interest served in public authorities being able to access advice which benefits from legal professional privilege was noted in the judgment of *Bellamy v the Information Commissioner and DTI* [EA/2005/0023] in which the tribunal, on the subject of legal professional privilege said:

"there is a strong element of public interest inbuilt into the privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt interest....it is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion, save in the most clear case..."

The Welsh Government agrees with this view that it is important to maintain legal professional privilege and considers that, in the absence of at least equally strong countervailing considerations, any disclosure of information covered by legal professional privilege would be likely to result in substantial harm.

Legal advisers need to be able to present the full picture to their clients which includes legal arguments in support of a position and any relevant counterarguments. This is what underpins the long-established principle of legal professional privilege.

It is in the nature of legal advice that it often sets out the possible arguments both for and against a particular view. If recipients or providers of legal advice believe that it is likely that the legal advice would be published, especially in respect of an ongoing matter, then this would have an adverse effect on whether such advice is commissioned or provided and how comprehensive it is. This would be likely to result in substantial harm to the quality of decision-making since it would not be fully informed.

Moreover, disclosure of its legal advice has a significant potential to prejudice the Government's ability to defend its legal interests – both directly by unfairly exposing legal arguments to others who may seek to challenge the Government's action or position, and indirectly by diminishing the reliance it can place on the advice having been properly considered and presented without fear or favour.

Balance of the public interest

Although there is a public interest in demonstrating that all relevant legal considerations were taken into account by Ministers when reaching their decision, it is not necessary that the legal advice be made known in order to do so. The legislation related to the decision in question was scrutinised by the Senedd's Legislation, Justice and Constitution Committee. The Committee's report is available in the public domain and did not raise any technical scrutiny points.

There is a strong public interest in maintaining legal professional privilege in respect of legal advice on this matter. In conclusion, I believe the public interest in maintaining the exemption under section 42(1) of the Freedom of Information Act 2000 outweighs the public interest in disclosing the information.

Correspondence between the Welsh Government and the Valuation Office Agency (VOA)

From: Welsh Government
Sent: 06 January 2022 15:48
To: VOA
Subject: Self-Catering Criteria

I wanted to update you on the consultation we completed at the end of 2021, looking at second homes and self-catering properties. As you know the consultation received a large number of responses, and a great deal of respondents commented on the current 70/140 day requirement from self-catering properties to be classified as non-domestic properties.

It is a real possibility that the decision could be taken to change this criteria. Would it be possible to have a quick conversation around what this would mean for the VOA in relation to monitoring and evidencing ratepayer's meeting a new self-catering criteria, including how this fits with our current monitoring arrangement and in relation to the April 2023 revaluation?

We have a catch up Monday, we can discuss in more detail then – it may justify a separate meeting but we can make that call Monday.

From: VOA
Sent: 10 January 2022 09:33
To: Welsh Government
Subject: RE: Self-Catering Criteria

Yes happy to discuss at today's catch up though happy to have a separate meeting to discuss in more detail.

From: Welsh Government
Sent: 11 January 2022 13:49
To: VOA
Subject: RE: Self-Catering Criteria

Would you have time for a further chat with us later this week? We're under some pressure to develop our plans quite quickly and want to be sure we have a shared understanding of how a change in criteria would take effect, in practical terms.

From: VOA
Sent: 11 January 2022 14:07
To: Welsh Government
Subject: RE: Self-Catering Criteria

Would say 12:00 this Friday work for you

From: Welsh Government
Sent: 26 January 2022 09:51
To: VOA
Subject: RE: Self-Catering Criteria

Thanks very much for making the time for the further discussion on changing the self-catering criteria we had a couple of weeks ago. We said we would follow-up to seek advice on the feasibility and cost of some potential options for a condensed cycle of re-checks, following a change in criteria.

Our starting assumption is that the default position remains that, even if criteria change, the VOA will continue with the previously agreed rolling 2-year cycle of re-checks. This means that properties already on the NDR list will be re-checked anytime from a day to two years after a change in criteria. There would be no financial implications, other than the funding already agreed to ensure the 2-year cycle is maintained.

We are interested in exploring options for a one-off divergence from the 2-year cycle of rechecks, following which we would revert to that default approach. Please could you advise on whether the following options would be feasible for the VOA and, if so, provide an estimate of any additional funding that would be required from the Welsh Government:

- Re-check within 1 month of new criteria taking effect
- Re-check within 6 months of new criteria taking effect
- Re-check within 12 months of new criteria taking effect

If there are other option(s) you think it would be worth us considering, please feel free to suggest them and provide an estimated cost. When we met, we also asked whether it would be feasible for the VOA to prioritise re-checks for properties less likely to be meeting the new criteria, based on their previous lettings activity. You advised that, due to the way that the VOA hold the evidence from previous assessments, this would not be sufficiently time or cost efficient to be viable. It would be helpful if you could also confirm that position as part of your advice on potential options.

Please let me know if I can clarify anything in the above request. It would be helpful, in the first instance, if you could give us a timescale for colleagues to consider and provide advice.

From: VOA
Sent: 26 January 2022 17:14
To: Welsh Government
Subject: RE: Self-Catering Criteria

Yes, my understanding is that the two yearly cycle remains the default and is reflected in the 2022/23 funding bid. As requested I can take forward your below

scenarios with Operational and Finance colleagues to work through some estimates and will get back to you a.s.a.p re the timescale.

From: VOA
Sent: 31 January 2022 16:00
To: Welsh Government
Subject: RE: Self-Catering Criteria

Just wanted to check something. For each of the three options you outlined in your below e-mail you say 're-check within xx months of new criteria taking effect'. As we would need one full year to pass to understand how long these properties were actually being let out do you actually mean: re-check within xx months of the 12 month anniversary of the new criteria taking effect? Assuming the new criteria came into effect on the 1st April 2023 the anniversary would therefore be on 1st April 2024. So the options would be re-check within 1, 6 or 12 months following the 12 month anniversary.

From: VOA
Sent: 31 January 2022 16:51
To: Welsh Government
Subject: RE: Self-Catering Criteria

Hi again, I also meant to ask do you mean re-check all self-catering cases, or 50% of cases within 1,6 and 12 month options?

From: Welsh Government
Sent: 01 February 2022 08:20
To: VOA
Subject: RE: Self-Catering Criteria

Our layers are approaching the drafting of the order in such a way as to ensure the changes would apply from 1 April 2023. If taken forward, the Order would come into force later this year, but the provision will specify that the altered criteria apply to assessments undertaken from 1 April 2023 onwards, avoiding the issue of potential retrospection. This is all, of course, subject to confirmation by Ministers.

So the options are to re-check all self-catering cases within 1, 6 or 12 months following 1 April 2023, not the 12 month anniversary.

From: VOA
Sent: 01 February 2022 10:16
To: Welsh Government
Subject: RE: Self-Catering Criteria

Okay, thanks for clarifying. The concern for us would be that in order to determine whether self-catering cases have met the minimum number of days let in one year

(and if necessary for us to take any action) any new criteria i.e. thresholds would need to be brought in at least 12 months beforehand. Therefore if we're making checks based on any new thresholds from the 1st April '23, they would need to have at least been brought into effect from 1st April 2022. I'm assuming that to run the technical consultation and pass the necessary regs would take us beyond this April?

From: Welsh Government
Sent: 01 February 2022 10:48
To: VOA
Subject: RE: Self-Catering Criteria

Our position, through discussion with lawyers, is that as long as we announce the decision to legislate more than a year in advance and make the legislation as soon as practicable, then the legislation doesn't necessarily need to be in force a full 12 months ahead. This is particularly the case with the drafting approach lawyers intend, which is slightly different from the approach taken to the 2010 and 2016 Orders.

In any case, I think the timing is a side issue to the request at hand. If we assume we are working to 1 April 2023, for the purpose of responding to this request, it could presumably be easily updated as necessary if timescales were to change. Is that ok?

From: VOA
Sent: 23 March 2022 09:10
To: Welsh Government
Subject: Self-catering assessment sampling exercise

Please see the attached analysis based on a random sample taken across all self-catering assessments in Wales. This illustrates the number of days that assessments are let out for. There is a breakdown for each reporting year since the commencement of the 2017 Rating List in Wales. Our analysts have also been able to provide a breakdown by the current 70 day threshold as well as the proposed.

This analysis has been used to inform the estimated resource for a one off checking exercise following the implementation of any change to the criteria in Wales. This is being finalised and will be with you shortly.

Please let me know if you would like to discuss further

From: VOA
Sent: 06 May 2022 10:14
To: Welsh Government
Subject: Self-catering: one-off checking exercise estimated resource

As requested please see the attached indicative estimates for the additional resource the VOA would require to undertake a one-off compliance checking exercise in the event of the self-catering criteria changing in Wales. We estimate

such an exercise could be feasible within a 12 month period however, the extent of the additional resource requirement would be greatly influenced by the number of assessments not meeting the new criteria and requiring transfer into council tax. A number of working assumptions have therefore been made and detailed in the attached.

We think it would be useful to meet with you to discuss further - if content please let me know what potential dates/ times could be workable.

From: Welsh Government

Sent: 10 May 2022 12:02

To: VOA

Subject: RE: Self-catering: one-off checking exercise estimated resource

Thanks for sharing that advice and apologies for the delay in acknowledging receipt. It would be helpful to discuss the estimates. We have the following availability over the next few weeks:

Weds 18 June 12:00-15:00

Thursday 19 June 11:00-14:30

Friday 20 June 11:00-12:00

Monday 23 June 13:00-15:00

Wednesday 25 June 12:00-15:00

Do any of those times work for you?

In confidence and so that you are aware, I hope we will be in a position to make the legislation to change the self-catering criteria early next week, following the recent technical consultation. This is still subject to a few internal dependencies.

From: VOA

Sent: 12 May 2022 12:03

To: Welsh Government

Subject: RE: Self-catering: one-off checking exercise estimated resource

Thanks and I've been exploring which times could be workable, though this has been a little challenging looking at our diaries. At the moment 13:00 to 14:00 on the 18th May could possibly work. Could you please hold this for the moment and I will aim to circulate a placeholder later today.

It will be good to discuss this work with you further, in particular how any one-off exercise could be phased - as any commencement from April 2023 would appear to mean we would have to look at the number of days assessments were made available/ let out retrospectively (over the previous 12 months) based on the new criteria – potentially leading to some customers raising concern they did not have sufficient time to comply. Happy of course to discuss this further in advance of next Wednesday - particularly if the legislative change is imminent.

From: Welsh Government
Sent: 25 May 2022 07:03
To: VOA
Subject: RE: Self-catering regs

Further to the below, the statement was made and regulations laid yesterday evening:

[Written Statement: The classification of self-catering accommodation for local tax purposes \(24 May 2022\) | GOV.WALES](#)

From: VOA
Sent: 27 May 2022 13:05
To: Welsh Government
Subject: RE: Self-catering regs

Thanks for passing over the written statement from your Minister on the Self Catering Regulations. Just to let you know, we have prepared some lines to take for our Customer Service Centre. However, for all questions on the changes to criteria, timetable, legislation we will advise customers to contact the Welsh Government and seek to advice on the appropriate web pages.

From: Welsh Government
Sent: 27 May 2022 12:16
To: VOA
Subject: RE: Self-catering regs

No problem – thanks for letting me know. It may be helpful for you to be aware that the legislation and RIA are published here: [SL\(6\)203 - The Non-Domestic Rating \(Amendment of Definition of Domestic Property\) \(Wales\) Order 2022](#)

From: Welsh Government
Sent: 14 June 2022 07:59
To: VOA
Subject: RE: Self-catering: one-off checking exercise estimated resource

I just wanted to follow up on the outcome of the VOA's resourcing estimate for a one-off checking exercise, following the self-catering changes which have now been made. Thank you for the follow-up discussion, which was very helpful.

We are not being asked to diverge from our rolling two-year cycle of re-checks and will, therefore, default to the existing arrangement in the first instance. As discussed, there may be merit in considering further whether additional resources are needed to complete a cycle within two years, once we have a better idea of the scale of change during the course of the first year.

From: VOA
Sent: 15 June 2022 09:21
To: Welsh Government
Subject: RE: Self-catering: one-off checking exercise estimated resource

many thanks for confirming the position on the compliance checking. Agree, we can keep an eye on the resourcing as things progress.

From: VOA
Sent: 13 September 2022 12:07
To: Welsh Government
Subject: Self-Catering assessments - VOA approach

Just coming back to you regarding the new self-catering criteria, including our specific handling approach from 1 April 2023 but also some areas I wanted to flag in respect of the WG's already published guidance.

We plan on soon writing individually to all owners of self-catering properties in Wales to inform them of the criteria change and of our approach in undertaking assessments. We will also accordingly update our Rating Manual, which is also available online, in respect of the change. In alignment to the WG's published [guidance](#) we have defined our specific handling approach as follows in italics however, before we reach out to customers I just wanted to run this past you first so you have opportunity to provide any feedback. As it happens we've also just received correspondence from a Senedd Member concerning our operation of self-catering assessments, for which we will respond accordingly.

What is changing?

- Under the new criteria, a property will need to have been available for letting commercially as self-catering accommodation for short periods totalling at least 252 days (increasing from 140 days) in a 12-month period and actually let for a total of at least 182 days (increasing from 70 days). It must also be the intention of the owner that the property will be made available for short periods totalling at least 252 days (increasing from 140 days) for the following 12-month period.

When is it changing?

- The new criteria will be used by the VOA when assessing self-catering properties from 1 April 2023.
- Property owners intending to meet the new criteria should aim to do so during the 2022- 23 operating year as the VOA looks at a property's lettings records for the 12 months prior to the date of assessment.

How will compliance with the new criteria be assessed?

- The VOA's assessment is based on letting records for the 12 months prior to the date of assessment and the property owner's intention for its availability for the subsequent 12 months - i.e. from the date of assessment. This means that an assessment on a given date in 2023 would consider evidence dating

back to the equivalent date in 2022 and the property owner's intention up to the future equivalent date in 2024.

- If a property does not meet the new criteria for the 2022/23 operating year, then the VOA will remove it from the rating list from 1 April 2023 however, the VOA will not backdate the property for CT prior to this date. The VOA would only backdate prior to 1 April 2023 for properties that did not meet the previous 140-day/ 70-day day criteria. In such cases they would be backdated and removed from the rating list from the point at which they ceased to meet the 140-day/ 70-day day criteria.
- The VOA conducts a rolling programme to check that properties listed as self-catering in the non-domestic rating list meet the criteria in place at the time of assessment. The assessment process is an established one and is not being introduced as a result of the new criteria

When reading through the WG's published guidance however, we noticed several areas that may need amending. Please see the attached however are summarised as follows:

- Making it clearer what would happen to a property if it doesn't meet the criteria following a compliance review. Please see the corresponding comment and suggested text.
- It is not exactly clear what is meant by 'pro-rating'. This is not a term used by the VOA.
- Some slight suggested re-wording to the 'How will my-self-catering property be assessed for rates?' section.
- The 'How is commercial basis defined' section is not entirely accurate - please see some suggested re-wording in the corresponding comment.
- What qualifies as a 'long term basis' needs amending from 60 days to 28 days.
- Some slight changes to the framing of the 'What happens when a property stops being classified as a self-catering property' section
- The guidance states that it's the responsibility of the ratepayer to notify the VOA of any changes. This is not technically correct and would require re-wording
- Also, the guidance concerning 'averaging' (i.e. multiple units operated together as one business) may need some further consideration - will come back with further detail

Hope this makes sense and happy to set some time aside to discuss further.

From: Welsh Government

Sent: 22 September 2022 12:20

To: VOA Subject:

RE: Self-Catering assessments - VOA approach

Thanks for your comments on elements of our guidance. We'll word through these and make some amendments.

Thanks also for setting out your proposed approach to managing the transition to the new criteria. It would be really helpful to meet with relevant colleagues to talk through how the assessment process works in practice and, where necessary, how movement between lists is managed.

Could you determine availability over the next few weeks for the relevant colleagues?

From: VOA
Sent: 22 September 2022 14:28
To: Welsh Government Subject:
RE: Self-Catering assessments - VOA approach

No problem and will look to get something set up a.s.a.p - hopefully sometime next week.

From: VOA
Sent: 22 September 2022 15:16
To: Welsh Government Subject:
RE: Self-Catering assessments - VOA approach

It looks like calendars are tight at the moment, however with thanks to [REDACTED] for checking how do the following sound?

- Thursday 29 Sep 11:30 - 12:00
- Tuesday 4 October 09:30 - 10:00

From: Welsh Government Sent on: Friday, September 23, 2022 6:12:44 AM
To: VOA Subject:
RE: Self-Catering assessments - VOA approach

Thanks for the quick consideration. It looks like we can accommodate Tuesday 4 October at 9:30-10:00. Please could you include all Welsh Government colleagues copied in.

From: VOA
Sent: 23 September 2022 09:02
To: Welsh Government
Subject: Wales Self Catering Regs - Handling Approach

Just adding some time for us to discuss the new the new self-catering criteria, including the VOA's specific handling approach from 1 April 2023. This includes our plan to soon write individually to all owners of self-catering properties in Wales to inform them of the criteria change and of our approach in undertaking assessments. We will also accordingly update our Rating Manual, which is also available online, in respect of the change. In alignment to the WG's published guidance we have defined

our specific handling approach however, before we reach out to customers we just wanted to run this past you all first so you have opportunity to provide any feedback.

From: VOA

Sent: 04 October 2022 08:58

To: Welsh Government, VOA Subject:

RE: Wales Self Catering Regs - Handling Approach

I know I've shared this previously though for ease of reference during this morning meeting please see the following VOA approach in respect of the self-catering criteria change in Wales. Will look forward to discussing.

What is changing?

- Under the new criteria, a property will need to have been available for letting commercially as self-catering accommodation for short periods totalling at least 252 days (increasing from 140 days) in a 12-month period and actually let for a total of at least 182 days (increasing from 70 days). It must also be the intention of the owner that the property will be made available for short periods totalling at least 252 days (increasing from 140 days) for the following 12-month period.

When is it changing?

- The new criteria will be used by the VOA when assessing self-catering properties from 1 April 2023
- Property owners intending to meet the new criteria should aim to do so during the 2022- 23 operating year as the VOA looks at a property's lettings records for the 12 months prior to the date of assessment.

How will compliance with the new criteria be assessed?

- The VOA's assessment is based on letting records for the 12 months prior to the date of assessment and the property owner's intention for its availability for the subsequent 12 months - i.e. from the date of assessment. This means that an assessment on a given date in 2023 would consider evidence dating back to the equivalent date in 2022 and the property owner's intention up to the future equivalent date in 2024.
- If a property does not meet the new criteria for the 2022/23 operating year, then the VOA will remove it from the rating list from 1 April 2023 however, the VOA will not backdate the property for CT prior to this date. The VOA would only backdate prior to 1 April 2023 for properties that did not meet the previous 140-day/ 70-day day criteria. In such cases they would be backdated and removed from the rating list from the point at which they ceased to meet the 140-day/ 70-day day criteria.
- The VOA conducts a rolling programme to check that properties listed as self-catering in the non-domestic rating list meet the criteria in place at the time of assessment. The assessment process is an established one and is not being introduced as a result of the new criteria.

From: VOA
Sent: 17 October 2022 17:06
To: Welsh Government
Subject: Self-Catering criteria change – Mailshot

As previously discussed we are seeking to mailshot all owners of self-catering properties in Wales (as well as in England) concerning the respective changes announced for 1 April 2023 affecting eligibility for Business Rates.

I'm sharing a copy of the latest iteration of our communications plan, covering activity to inform customers of forthcoming changes for your awareness.

The mailshot is the main planned activity and we expect this to go out from w/c 24 October. We are finalising the content now but I also attach the draft letter covering Wales to give a sense of what is covered.

Could you please share with any relevant colleagues? Sorry for the tight timescale but if you have any concerns or reflections (in particular for the draft letter) please could you let me know by c.o.p tomorrow as we will need to get this finalised to go out.

From: VOA
Sent: 18 October 2022 10:21
To: Welsh Government
Subject: RE: Self-Catering criteria change – Mailshot

Apologies to come back however, hot off the press we have a further advanced version of the draft letter which now includes additional detail/ clarification of the actual date of assessment to be used. Hope this is okay and happy of course to cover at this afternoons self-catering catch-up meeting.

From: Welsh Government
Sent on: 18 October 2022 13:49
To: VOA
Subject: RE: Self-Catering criteria change - Mailshot

Thanks for sharing this. Once of my colleagues has tracked a few terminology changes to the first version you shared.

What would have been my only substantive comment is partly addressed by the updated version you shared this morning, in that I think it's important to be clear that assessments will look back to check that compliance with the new criteria is met from 1 April 2023 onwards, even if the assessment takes place at a later date.

It might also be worth including (here or in your wider lines) that, if an operator knows they don't meet the criteria and wants timely clarity on the council tax liability, they could let you know rather than waiting to be reassessed.

Could you let me know when you have a firm date for the mailshot to issue. We can then make our comms team aware, in case of queries

From: VOA
Sent on: Tuesday, October 18, 2022 2:29:54 PM
To: Welsh Government
Subject: RE: Self-Catering criteria change - Mailshot

Thanks for the feedback and it makes it easier to understand now including the date of assessment. Just to clarify that the term 'eligible' has been used as its consistent with the language used on Gov.uk so colleagues would wish to retain. Also the additional guidance for customers that know that they won't meet is included in our lines to take.

From: VOA
Sent: 19 December 2022 14:27
To: Welsh Government
Subject: Self-catering - defining a 'day'

Just to keep you in the loop that we've had an external query regarding how we define a 'day' for the purposes of ascertaining if the 140/70 day criteria for self-catering assessments are met - as they note that where the regs state 'day' our form of return asks for them to confirm the number of 'nights'.

Given the interest in self-catering at the moment we just wanted to sight you on what we class as a 'day' to ensure clarity, especially in the event of the WG being directly approached on this issue too.

When deciding whether the 70/140 (or from 1 April 2023 the 252/182) day criteria are met, we interpret a 'day' by looking at the circumstances at the end of a calendar day and establish whether the accommodation in question was let immediately before the day ends, i.e. immediately before midnight of the day in question. If it were let at this time, then the day can be counted, but if not, e.g. the guest had vacated earlier in the day, then that day is not counted.

Therefore our form of return asks for the number of 'night's to help avoid scenarios where double counting could occur e.g. where on the same day one guest checks out and another checks in. This approach aligns with the various provisions of S67 of Local Government Finance Act 1988, where the circumstances 'immediately before the day ends' consistently come under consideration.

Please let me know if you have any concerns regarding the above or if you would like to discuss further. Ideally I'd like to respond to the query by c.o.p tomorrow.

From: Welsh Government
Sent: 19 December 2022 14:41
To: VOA
Subject: RE: Self-catering - defining a 'day'

Thanks for sharing – that is useful to understand and makes sense. We do occasionally get that type of query and would usually direct people to the VOA to understand the details on the assessment process.

From: VOA
Sent: 07 February 2023 12:58
To: Welsh Government
Subject: FW: Self-catering - defining a 'day'

FYI - I just wanted to keep you in the loop following a query we've received from a self-catering operator concerning how we define a 'day'. Their query arises from our lines to take (as covered in my below e-mail on the 19th Dec) - specifically as to why we consider a property as at 'just before midnight' which they dispute as having no basis. We have therefore outlined the following which we hope will provide them clarity. I just wanted to put you in the picture as the operator had also mentioned they may escalate to the WG.

The eligibility tests of the property (known as a 'hereditament' for rating and council tax purposes) being available to let commercially for 140 days and actually being let for short periods totalling at least 70 days were inserted into section 66 (2BB) of the Local Government Finance Act 1988 ('LGFA 1988') in March 2010 following the enactment of The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010. In order to decide whether a property is liable to non-domestic rates or to council tax for any particular day the law requires the Valuation Officer to look at the relevant circumstances at the end of each day. Section 67(5) of LGFA 1988 states:

'For the purpose of deciding the extent (if any) to which a hereditament consists of domestic property on a particular day, ... the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.'

Therefore, any letting of a property that ends before midnight (when the day ends) has to be ignored for the purposes of deciding whether the requirements of section 66(2BB) of LGFA 1988 have been met for that day. This means, for example, that where a property is let out from Friday afternoon to Sunday morning only Friday and Saturday will count as days when it is used for non-domestic purposes, because at the end of the day on Sunday it is not let out and therefore the whole of Sunday has to be treated as not let out.

Because we must only count days where the letting continues to at least midnight we count the number of nights let as this means we only include days that meet the legal requirement. The Valuation Office Agency is not able

to adopt a different definition of a 'day' to include any commercial letting for a period in excess of 12 hours on any given calendar day.

From: Welsh Government
Sent: 07 February 2023 14:39
To: VOA
Subject: RE: Self-catering - defining a 'day'

Thanks for keeping us updated on this. We have had a small number of queries on how days are counted. I'll let you know if we receive any apparent follow-up from the queries you have responded to

From: Welsh Government
Sent: 08 March 2023 13:14
To: VOA Subject:
RE: Self-catering - defining a 'day'

Further to the below, when we met recently we agree to include an explanation on this matter in our guidance. Please could you provide a form of words you would like us to include? We have prepared an update to go live on 1 April, when the new criteria take practical effect, and I intend to include this at the same time.

From: VOA
Sent: 08 March 2023 16:43
To: Welsh Government Subject:
RE: Self-catering - defining a 'day'

I've linked in with colleagues in CVG and Comms with some proposed wording. Will come back to you a.s.a.p once signed off.

From: VOA
Sent: 17 March 2023 12:39
To: Welsh Government
Subject: Updates to GOV.UK self catering pages

As promised please see the following text explaining how the VOA interprets and applies a 'day' for the purposes of assessing self-catering holiday lets i.e. that we use nights. Grateful for your offer for this to be incorporated into an appropriate section within the WG's published guidance.

Once updated please could you share the weblink as would be useful if asked for by customers.

"In order to decide whether a property is liable for non-domestic rates or for council tax for any particular day, the law requires the Valuation Officer to look at the relevant circumstances at the end of each day. Any letting that ends before midnight

(i.e. immediately before the day ends) would not qualify towards the total days of actual lettings which is one of the tests for non-domestic assessment. This means, for example, that where a property is let out from Friday afternoon to Sunday morning only Friday and Saturday would count as qualifying days of being actually let when considering this test. This is because the whole of Sunday has to be considered on the circumstances immediately before midnight. Therefore, to ensure clarity the Valuation Office Agency form asks operators of self-catering holiday lets to declare the number of nights their property was made available and let out for specified time periods”.

Please let me know if you have any concerns regarding the above or if you would like to discuss further

From: Welsh Government

Sent on: Friday, March 17, 2023 12:42:21 PM

To: VOA

Subject: RE: Updates to GOV.UK self catering pages

Thanks, that text looks good. We are preparing an update to go live on 1 April, when the new criteria take effect, and will confirm once done

Correspondence between the Welsh Government and PASC UK

Where PASC UK are a co-signatory to correspondence from the Wales Tourism Alliance, this is included in Annex 4.

From: PASC UK

Sent: 31 March 2022 08:15

To: Welsh Government

Subject: Changes to the NDR Threshold for self-catering in Wales

This afternoon I was on a Cross Party Call with Visit Wales and Government Officials discussing the proposed change in threshold for self-catering to rise to 182 days to be able to apply to change from Council Tax to Business Rates.

We note that in the Welsh Government Consultation on this subject (number 44354), that the answers to Question 9:

'If the self-catering thresholds were to be changed, what do you suggest the new thresholds should be'

Of the 121 responses to this question the most frequent suggestion was 105 days which would bring the threshold in line with the HMRC definition of a self-catering business and allow expenses to be claimed against turnover. By aligning with this threshold it would have made a clear definition of what was a self-catering business is. We can find only 9 responses indicated the threshold should be raised to 182 days.

It is therefore something of a shock , that with only 9 responses to the WG consultation suggesting that the threshold for self-catering currently on the NDR register should be raised from the current 70 days to 182 days in one bound, the decision has been made to raise the threshold to a 50% occupancy rate.

Can we ask what economic impact studies have been made on this proposed increase? Our data shows that the impact will be huge, and most particularly felt in rural parts of Wales.

From: Welsh Government

Sent: 7 April 2022 08:59

To: PASC UK

Subject: Changes to the NDR Threshold for self-catering in Wales

The Welsh Government note your comments about the level at which the new thresholds will be set and the need for a balance to be struck in these circumstances. Following the policy consultation undertaken last year, the Welsh Government is of the view that properties let out as self-catering accommodation on an infrequent basis should be liable for council tax. A wide range of specific suggestions were provided in response to the relevant consultation question. The new thresholds will ensure that self-catering properties are classed as non-domestic

only if they are being used for business purposes for the majority of the year and are making a substantive contribution to the local economy.

The decision to amend the criteria for self-catering properties to be classified as non-domestic was [announced](#) by the Welsh Government on 2 March, following consultation. The announcement provided clarity that the changes will have practical effect from 1 April 2023. This has provided property owners with the opportunity to consider their options with regards to the use of their properties, and take any desired action over the year prior to evidence being required for assessments taking account of the changes.

As you know, the Welsh Government is currently carrying out a further [technical consultation](#) on the draft of the proposed Regulations. When the legislation is made, subject to any changes arising from the technical consultation which is open until 12 April, it will be accompanied by a Regulatory Impact Assessment.

From: PASC UK
Sent: 10 April 2022 12:10
To: Welsh Government
Subject: Changes to the NDR Threshold for self-catering in Wales

We have spent the last ten days frantically gathering evidence for you to show that the 182-day threshold is going to have dreadful consequences on genuine businesses in Wales. It is the wrong measure to try to deal with the second homes problem that we all agree on.

Please read the attached document, the appendix has over 200 case studies of the impact that this will have, we managed to highlight some by the deadline to make it easier for you to see the kind of personal and economic impact this will have on Welsh families.

The threat of the instruction of this threshold, effectively retrospectively, is causing huge mental stress across the whole sector, just as they were beginning to recover from Covid, but have been hit again by the uncertainty caused by cost-of-living rises, energy rises and the ghastly apocalypse in Ukraine. It is the wrong measure, at the wrong time.

Please, I urge you to read the attached. This WILL have a massive detrimental effect on thousands of small micro-Welsh Businesses.

The attachment referred to in this correspondence is published on PASK UK website at the following link (titled "Body of Evidence 182 Day Threshold 8 April 2022"):
<https://www.pascuk.co.uk/wales-182-days-reports/>

Correspondence between the Welsh Government and tourism or letting agencies

Part 1: Correspondence with the Wales Tourism Alliance

From: Wales Tourism Alliance

Sent: 04 March 2022 08:52

To: Minister for Climate Change

Subject: Wales Tourism Alliance Open Letter Re: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Please accept the attached open letter in response to your recent announcement.

Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Please accept this open letter as an expression of our dismay at the contents of the draft order. While we have views on the level of council tax proposed, it is the threshold for distinguishing between a second home/casual let and a self-catering business (FHL) which is the subject matter of this letter.

Your announcement of 2nd March 2022 came as a complete shock to the tourism industry, most particularly bona fide FHLs. Key representatives had responded in good faith to the consultation on second homes, as keen to distinguish between FHLs and second homes/casual lets as the Welsh Government is.

In fact, FHLs had, themselves, offered the position that the current threshold is not sufficiently ambitious to create the distinction.

The Wales Tourism Alliance had suggested that the NDBR thresholds be raised to parity with the HMRC's availability condition of at least 210 days in the year (already an increase from the 140 days prior to 2012) and occupancy as a commercial, furnished holiday accommodation for at least 105 days in the year. This represents a 50% increase in both criteria, and is readily understood by FHLs, familiar with HMRC, making introduction less confusing.

The draft order raises both those criteria dramatically: the number of days the property must be available rises from 140 to 252 days, an 80% increase, and the number of days a property must be let rises from 70 to 182 days, a rise of over 150%. There is no explanation as to why these figures have been chosen. Responses to Q9 in your own consultation are clear that this is not the majority position. That is despite the fact that many respondents were strongly anti-second homes and who, perhaps, did not distinguish between FHLs and domestic properties. Of the 155 responses suggesting a rise on the availability criterion, 149 proposed thresholds higher than the current 140 days, ranging from 150 to 365 days. The most common specific suggestion was 210 days a year. The most common specific suggestion for commercial occupancy was 105 days, with others ranging between 182 days or 6 months (9 responses).

While we understand that you wish to take firm action on second homes and those who game the local tax system, these proposed changes show no understanding of how FHLs operate and how they deal with inconsistency of demand.

FHLs would be delighted to be able to guarantee 182 days of occupancy. Some, perhaps, can in areas of exceptionally high demand. They are not typical of the sector. However, the thresholds you propose affect all Wales and are not discretionary (unlike the council tax premium on second homes). We want FHLs to pull out all the stops, but this occupancy threshold will be out of reach for too many, regardless of how hard they try, yet their contribution to their local economy and jobs market remains invaluable.

Demand is down to the customer and the seasons. Even 52 long weekends would not reach the proposed occupancy threshold and it is a rare FHL that secures 52 long weekends. It would be extremely ambitious to think that the rest could be made up by weekly bookings in high season, especially in parts of Wales where *under-tourism* is the issue.

We urge you to reconsider these thresholds, particularly the occupancy threshold. Even the most vigorous marketing of quality FHL accommodation cannot guarantee the equivalent of six months of end-to-end bookings. It would be erroneous to make any assumptions based on the pandemic period as this cannot be seen as indicative of future demand patterns.

Furthermore, these proposals have been prepared on the assumption that all properties, whether FHLs or casual lets, would be suitable as homes. FHLs have to comply with industry standards (unlike casual lets) but this is not the same as for domestic residential lets:

1. Many FHLs are single units owned by families within the curtilage of their own homes. They will be paying business rates on that unit and, even if eligible for the small business exemption, will be paying premium business costs for council services such as waste collection. If they cannot meet the new occupancy thresholds, these micro businesses would be unviable at the new council tax rates. They would then lose a substantial part of the family income (taxed), but without releasing a property into the residential housing market.
2. Many self-catering units have planning permission to operate solely as commercial units, e.g., farm diversification, and fall outside the council tax regime altogether. If providers fail to meet the occupancy threshold, they cannot simply be transferred into domestic property taxation.
3. Many properties are not in villages but in locations where they are of no interest and often in too poor a condition - to be attractive to local residents

Conversely, the new proposal would effectively:

- Discourage businesses who cannot meet the occupancy threshold consistently and shut out new entrants to the self-catering industry in those parts of Wales where there is under-tourism and no threat to community identity or cohesion (see the Brooks report). This would no longer be a viable option for rural business diversification.
- Discourage the bringing back into use of empty properties, especially those where mortgage valuations are low compared to asking price, and where

renovation/maintenance costs are too high in comparison to the size and value of the property. We suggest that the NDR threshold and council tax proposals will both stifle investment in older properties, undermining the purpose for which these changes have been proposed.

- England, our nearest competitor and source of most overnight visitors to Wales, has recently adopted an occupancy threshold in line with Wales current threshold of 70 days. Wales self-catering businesses would be placed at a distinct commercial disadvantage to English businesses, particularly those on the eastern border of the country where under-tourism is an issue and where the Brooks report pointed to there being no second homes issue.

Finally, we understand that your department is focused on addressing the second homes issue which undoubtedly faces some communities in Wales. However, Welsh Government also has its responsibilities to the Welsh economy. Tourism is a major industry in Wales. We imagine these proposals will be a concern to the Minister of a different department in the absence of modelling or economic impact assessment.

We are not aware, either, of any modelling on how this will affect the tax take from the tourism industry, a matter of some interest to another Minister. Tourism businesses have made it clear they do not support the gaming of the local tax system and understand their role in contributing through fair taxation. These thresholds deny them the opportunity to pay fair local business tax.

The tourism industry has found itself in a very unstable position because of covid, recognised by the fact it had additional Welsh Government assistance during lockdown. The effects will not disappear overnight and it is very difficult to extrapolate anything from the figures for 2020 - 2022 in order to have a clear picture of the future.

What is clear, though, is that - on top of other pressures recorded elsewhere - the cost-of-living rises will affect businesses and, just as importantly, those who would like to holiday in Wales; a good quarter of them are from Wales itself. Welsh Government's own research points to the family budget being the main predictor of holiday choices. The industry is facing a growing trend of last-minute booking and, now, fierce competition from the lower price-point overseas holiday market. Wales tourism is more than its coastal hotspots. It has been caught up in attempts to mitigate lack of investment in housing supply and local authority budgets at a time when it is trying to find some equilibrium, retain its good reputation, provide jobs and contribute to the country's coffers.

Please don't throw the baby out with the bathwater.

From: Wales Tourism Alliance
Sent: 14 March 2022 15:46
To: Minister for Climate Change
Subject: Meeting request: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Following your recent announcement to raise the bar for Self-catering businesses from days actually let from 70 days to 182 days in any 12-month period, we have received a considerable amount of concern, indeed anger, from the tourism industry across Wales. Many self-catering businesses are simply worried they will have to close down, others that they only have planning permission for their property to be used for self-catering only without being able to use it as a dwelling, whilst potentially liable for 300% council tax?

We have also reviewed the responses to the previous consultation and the numbers do not seem to justify this proposal? Indeed we were happy to raise the number of days let to put it in line with HMRC's current availability criteria at 105 days, but raising the level to 182 days?

We are entering a period of galloping inflation, with BOE projections of 7-8%, although with the price rises we are seeing week on week at the moment, many way above this, especially for energy this is starting to look conservative. Our consumers are already showing signs that the market is cooling, post Pandemic, just as we enter war in Europe?

We realise this is currently an open consultation, but we would like to meet you in person (on-line) as soon as possible to put some of these issues to you direct.

I leave it to you to suggest a convenient time and date before 12th April.

From: Minister for Finance and Local Government
Sent: 21 March 2022
To: Wales Tourism Alliance
Subject: Wales Tourism Alliance Open Letter Re: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Thank you for your letter to Julie James MS, Minister for Climate Change, about changes to the treatment of self-catering properties for local taxation purposes. I am replying as local taxation policy falls within my portfolio.

As you know, on 2 March I announced plans to change the letting criteria for self-catering properties to be classified as non-domestic for local taxation purposes.

We invited views on the policy approach as part of a 12-week consultation on the local taxes for second homes and self-catering accommodation. The consultation

was open from 25 August to 17 November 2021 and received almost 1,000 responses. A summary of responses was published on 1 March. The views conveyed in responses to the consultation, including those from respondents representing the wider tourism industry, support a change to the criteria for self-catering accommodation to be classified as nondomestic. Respondents were of the view that the majority of genuine holiday accommodation businesses would be able to satisfy increased letting thresholds, and a range of possible alternatives was suggested. Increasing the thresholds will provide a clearer demonstration that self-catering properties are being let regularly and are making a substantial contribution to the local economy.

On 1 March, the Welsh Government launched a technical consultation on draft legislation, which will implement the announced change to the criteria. The legislation would take practical effect from 1 April 2023. The legislation will amend the criteria which must be met before a property is classified as non-domestic for local taxation purposes. In any 12-month period, the minimum numbers of days a property is required to be:

- actually let will increase from 70 days to 182 days; and
- made available to let will increase from 140 days to 252 days.

The consultation is open for six weeks, until 12 April 2022. It seeks views on the technical clarity of the legislation, rather than the policy approach which has already been consulted upon, but I would welcome any further evidence which respondents are able to provide.

I note your comments about the level at which the new thresholds will be set and recognise that there is a balance to strike. The Welsh Government is of the view that properties let out as self-catering accommodation on an infrequent basis should be liable for council tax. The new thresholds will ensure that self-catering properties are classed as non-domestic only if they are being used for business purposes for the majority of the year and are making a substantive contribution to the local economy. The plans to increase the letting thresholds for self-catering accommodation form part of our three-pronged approach to tackling the issues that can arise from large numbers of second homes in communities and to helping people to live affordably in their local areas. As part of the Co-operation Agreement, we are taking immediate and radical action. The approach comprises a package of measures to provide support, make improvements to the regulatory framework, and ensure people make a fair contribution through the local and devolved tax systems.

The package includes the consideration of a range of options for enabling empty and underused properties to be brought back into use, increasing the availability of affordable housing and driving up standards. The Welsh Government is also working closely with the tourism sector to develop a system for the registration of tourist accommodation to ensure a level playing field for tourism businesses, provide clarity and assurance for visitors, and improve our understanding of the tourism offer.

From: Wales Tourism Alliance

Sent: 27 May 2022 12:00

To: Minister for Finance and Local Government

Subject: Request for meeting regarding Written Statement: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Response to the Written Statement: The classification of self-catering accommodation for local tax purposes in relation to the Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic property) (Wales) Order 2022

Please accept this letter as an expression of our absolute dismay at the contents of the recent Written Statement: The classification of self-catering accommodation for local tax purposes. Your announcement of 24th May 2022 has come as a great shock to tourism businesses across the entire length and breadth of Wales, most particularly bona fide FHLs a great many of whom provided you and your team with detailed, often heart-breaking accounts as to the impact of this proposal if it is to proceed.

Despite an exceptional feeling of anger being expressed by the industry at this time, we recognise our priority now must be to work with the Welsh Government to mitigate the impact of this new threshold on businesses and we wish to raise a few immediate points:

- We note that this is due to come into force from the 1st of April 2023 based on a retrospective record for 2022/23. One quarter of this year will already be gone by the time you legislate, making this effectively retrospective. The sector needs time to adapt and adjust.
- The staycation boom now appears to be fading and we feel we were right to warn against relying on recent activity once competition and, now, cost of living is back in the mix. It will be extremely ambitious to think that a majority of businesses across Wales, especially where *under*-tourism is the issue, will be able to reach your one size fits all target.
- We are concerned that this threshold will discourage investment and shut out new entrants to the self-catering industry in those parts of Wales where there is under-tourism and no threat to community identity or cohesion (see the Brooks report).

We note that you are currently looking toward exemptions. We suggest such a list of qualifying cases should at least include the following stand-out issues. We have begun the process of consulting with our members to seek a more definitive list for your consideration

- In the instances of planning restrictions of all kinds that prevent the property being residential or a long term let. Particularly annexes and properties in curtilages that cannot be sold separately such as with regard to listed buildings. (We note Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015).
- We suggest we need agreement about how repairs and refurbishment allowances can be made.

- We recommend there needs to be provision for the impact of death, illness, carer duties, annual leave and also things like jury service.
- A large number of Members offer weeks to Charities, so that the Charity can raise money, The owners give these weeks for free, this is common place and we believe these weeks needs to be allowable or charities and their recipients will suffer. We suggest that operators that have charitable status should be exempt
- We believe that there should be an appeal process against 182 days in exceptional circumstances.

We also would like to draw your attention to the impact on years of Welsh Government investment in encouraging farm diversification where self-catering will in its current form no longer be a viable option for rural business diversification. Please can we arrange a meeting with you as soon as possible as an opportunity to share your evidence (a) on how many businesses can successfully transition in those areas where there are already council tax premiums and (b) the work done on which properties would be suitable as homes.

We look forward to hearing from you at your earliest convenience

From: Minister for Finance and Local Government

Sent: 09 June 2022

To: Wales Tourism Alliance

Subject: RE: Request for meeting regarding Written Statement: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Thank you for your letter regarding my recent announcement on the classification of self-catering accommodation for local tax purposes.

I would also like to thank you and your colleagues for responding to the recent technical consultation on the Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022.

I recognise that my announcement on 24 May did not reflect the outcome that many operators in the self-catering sector were hoping for. The issues presented by the numbers of second homes and holiday lets in Wales and the shortage of affordable housing are complex and interlinked, and the Welsh Government is seeking to address these issues through a series of interventions as part of our three-pronged approach. None of these interventions is intended to be used in isolation and, with each of these interventions, we are seeking to strike a balance between the needs of local people, local communities, and local economies. Our focus in making changes to the treatment of second homes and self-catering accommodation for local tax purposes is to ensure that all owners and businesses are making a fair contribution to the local community.

I announced the planned changes to the letting criteria on 2 March, ensuring self-catering operators and the wider tourism sector were alerted to the changes more than 12 months before the new criteria would take practical effect. When I made that

announcement, I also set out the Welsh Government's plans and the timing of implementation.

The assessment process and Wales-wide application of the criteria, as the basis for defining self-catering property as domestic or non-domestic, are well-established and are not being newly introduced as part of these changes. I do not accept that this is a one-size-fits-all approach in the round, as local authorities will determine whether to apply a council tax premium and the level at which to set it, where properties are classified as domestic. These powers are discretionary powers, designed to enable local authorities to tailor their use to local priorities and circumstances.

I would also add that no authority has yet indicated an intention to increase its council tax premium to 300% from April 2023. Currently, three authorities apply the maximum premium of 100%.

I am grateful for the additional information provided during the technical consultation phase. We have published a Regulatory Impact Assessment alongside the Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022. This has considered the available evidence and demonstrates the Welsh Government's consideration of the impacts of the legislation.

As I said in my statement, I recognise the strength of feeling among self-catering operators and have listened to the representations. In particular, I am aware that there may be categories of planning condition preventing permanent occupation of a dwelling as a main residence that are not captured by the existing exception from a council tax premium. I am, therefore, exploring whether amendments are required to the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 to address this specific issue, with a view to any amendments coinciding with the threshold changes coming into effect on 1 April 2023.

For 2023, these considerations will be limited to restrictions arising from planning conditions preventing permanent occupation. This does not include properties within the curtilage of a main residence, whether an annexe or otherwise, if they are not subject to such a planning condition. The new criteria do not require properties to be made available to let throughout the whole year, allowing for periods of closure for maintenance or other reasons. There are also a number of discounts and exemptions within the existing council tax system which provide for particular circumstances.

In addition, local authorities have powers to reduce council tax bills for individual dwellings or classes of dwellings where they see fit. As well as considering amendments to the legislation on premiums, we will also be updating the guidance for local authorities on applying council tax premiums and using their discretionary powers. For the longer term, as part of my plans for the wider reform of the council tax system in Wales, I have set out my intention to conduct a wider review of council tax discounts, exemptions, and premiums.

A number of possible behavioural changes may occur amongst owners of second homes and self-catering accommodation in response to the increased letting criteria. These could include property owners adapting their operating models to make

greater use of their properties, to meet the increased criteria. Where this is not desirable or achievable, owners may choose to adapt their operating models to account for council tax liability. Some owners may choose to sell their properties, or to let them out as permanent domestic accommodation for the local community. Others may choose to occupy the property as their primary home or to adopt another option. It will be for property owners to decide on the approach to take and the Welsh Government is not in a position to comment on individual circumstances.

As you will appreciate, the Welsh Government has engaged and consulted widely on this issue. I met you and your colleagues on 30 March, as part of that engagement, and my officials have provided clarification on a range of related matters since then.

I can offer a meeting with officials, to provide any further clarity if that would be helpful in respect of the technical aspects of the announced changes. My officials will be in touch to make the arrangements.

From: Wales Tourism Alliance
Sent: 10 June 2022 18:19
To: Welsh Government
Subject: RE: Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

Will bunk house accommodation and glamping pods (shepherds huts, gipsy vans) be exempt from the 182 condition?

From: Welsh Government
Sent: 14 June 2022 07:11
To: Wales Tourism Alliance
Subject: RE: Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

I'm picking up your query

It is important to note that the types of property that are subject to the letting criteria is not changing. The criteria apply only to properties classified as self-catering holiday lets by the VOA.

The VOA are responsible for classifying non-domestic properties based on their use and there are numerous classifications within the broad use category which includes hotels, hostels, guest houses, self-catering holiday lets and others. It is for the VOA to confirm on a case by case whether a property is classified as self-catering. Properties not classified as self-catering holiday lets are not subject to the letting criteria which the above legislation amends.

From: Wales Tourism Alliance (jointly with PASC UK and UK Hospitality)
Sent: 22 June 2022
To: Welsh Government
Subject: Exemptions to the proposed amendment to the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

Further to our letter of 26th May and your reply of 9th June, we are grateful for your agreement to meet for further discussion on exemptions et al to the above Order (email [REDACTED] 17th June). Could we suggest either 13th July or morning of 14th July please? We would be grateful if this could be via Zoom to accommodate attendees who will be some distance away. At this point, we propose that [REDACTED] (WTA), [REDACTED] (PASC), [REDACTED] (UKH) and myself join you and officials.

Firstly, just to be clear I am writing on behalf of the Trade Associations representing professional self-catering businesses in Wales, not second home owners or casual lets. We are unified in our opposition to the 182-day threshold provision in the Order.

Whilst we understand that you intend to push forward with the introduction of the 182-day threshold, it has been difficult to see the evidence of harm, that we submitted from those professional businesses, reflected in the decision. You will recall the 400+ private testimonials to the 'technical' consultation, plus the further 1,100 which we offered you. This is not a case of anger on the part of small business owners: It is evidence of economic and personal impact. As of today, we are still unaware of the evidence that Welsh Government has which contradicts or outweighs that evidence, and we hope to learn more about that in the annulment debate on 6th July. We still appeal to you to lower the proposed 182-day threshold, even if to a compromise position which reflects average UK occupancy or the similar measure in Scotland.

During this process the Welsh Government has promised to listen to concerns and consider exemptions in order to mitigate impact on real businesses. You stated:

"The Welsh Government recognises that some self-catering properties are restricted by planning conditions preventing permanent occupation as someone's main residence. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 provide for an exception from a council tax premium for properties restricted by a planning condition preventing occupation for a continuous period of at least 28 days in any one-year period. In light of the changes, we are introducing to the letting criteria, I am also exploring whether further amendments to these regulations are necessary in advance of the changes taking practical effect. I will also be issuing revised guidance to local authorities on additional options that are available in the event that self-catering properties restricted by planning conditions do not meet the letting criteria."

We wish to assist you with that and, attached, is a list of discussion points which we hope will help frame our meeting. We will also wish to discuss the timing of the implementation of the Order as it will come into force less than a year from being laid. We have written separately to Visit Wales to help us understand what bespoke steps they will be taking to help businesses achieve the occupancy threshold within

this current financial year. It is appropriate that Government does what it can to mitigate the consequences of its decision.

On which, the need to review and agree the exemptions and mitigations in order to ensure that properties affected by planning consent, location, inadequate space/condition for permanent habitation and unavoidable personal circumstances is urgent if they are not to be caught in the consequences of this new threshold. As you will have seen, 30% of professionally run businesses (as opposed to second homes) have told us that they will have to close or sell.

We hope the attached briefing paper is helpful.

Briefing Paper: Exemptions to Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

Key asks.

1/ That the count towards 182 days let does not start from April 2022. It should not, in effect, be retrospective. Almost 25% of the year from April has already passed. We need a transition period, as is normal with these kinds of changes, to allow businesses to attempt to change. Mindful of the effect of the cost of living on discretionary spend, we suggest 2 or 3 years to allow the market to recover.

2/ An appeals process in defined circumstances.

Exemptions

- 1/ Properties that are limited by planning permission to only be short term commercial lets
- 2/ Properties that lie within the curtilage of an owner's primary residence
- 3/ Owners who have multiple units on one site, (e.g., a holiday cottage complex) can average occupancy across the units.
- 4/ Farming/horticulture diversification businesses
- 5/ Where the units are not housing stock withdrawn from the market but can be proved through recorded planning and building control that they have been created from vacant commercial or agricultural buildings.
- 6/ Exemptions for cottage businesses that are in effect "small resorts" or complexes. Sites that have multiple units on site owned by the same person, where facilities are provided for and shared by those staying on site. For example, if they have pools and games rooms, gyms, a play area, coffee shops. The practicalities (or even the ability) to actually split a business where some cottages would meet the new 182-day criteria and others wouldn't, would be basically impossible.
- 7/ Where the property is already run by a charity
- 8/ Weeks given by owners to raise money for charities should count towards days let, max two weeks per year (Either for Charitable status or Not for Profit).
- 9/ Where the accommodation is a supplementary part of a bigger business, events, weddings etc.
- 10/ If your short-let business is VAT rated
- 11/ Formal review of 182 days if Wales officially goes into recession.
- 12/ Pandemics or forced local closure

13/ Period of grace for new business entrants who would not get to 182 days in the first crucial years

14/ Where property is deemed unsuitable for permanent residence due to different regulatory thresholds (eg, room size, no kitchen space, safety measures))

Dispensations/pro rata reduction in 182 Days

1/ An exemption on dates taken up carrying out repairs and refurbishment

2/ An exemption on dates taken up carrying out property improvements

3/ An exemption on dates taken up because of closure due to ill-health or caring responsibilities

Some key questions

1/How will days be calculated, (e.g., late cancellations)

2/ What is a commercial rate for letting a property?

3/ What happens when an owner has 7 units on one Rateable Value, does this merge to one property on Council Tax rating or is it x 7?

4/ Similarly, if the unit is within the curtilage of a domestic property, will the values be separate or combined?

5/ How quickly will a unit receive its domestic band rating for council tax purposes?

6/ What will happen to pop up businesses? How will these be rated?

7/ What will happen to all the properties that the Councils don't know about?

8/ What happens to businesses which meet the threshold some years and not others

From: Wales Tourism Alliance

Sent: 26 July 2022 20:44

To: Welsh Government

Subject: Further queries re Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

I would be very grateful if you would provide a response to the attached letter.

Hope you get some time to yourself over recess.

Re: Exemptions and dispensations to 182-day occupancy rule re: self catering NDR v council tax

Could I thank your officials once again for meeting with me and my colleagues from the Wales Tourism Alliance and Professional Association of Self-Caterers UK (13th July 2022).

We presented our request that professional lets be exempt from the new rule in certain circumstances and left a list with officials for their consideration. Our request is not that such businesses be exempt from premium rates of council tax, but from the 182-day rule itself. The principle underlying the list is that there are businesses who cannot meet the new threshold rather than refuse to, and that the expectation that they can just change their business models is unrealistic in the categories we listed.

We repeated that we do not represent second homeowners or speculators and that all the evidence we have provided has come from professional holiday let businesses operating in the rural economy, mainly locally owned and often Welsh-speaking (depending on the area).

While we wait to hear back from your officials, we would be grateful if you could address the following queries which flow from the Explanatory Memorandum (EM) to the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022.

The Order is part of a suite of policies coming through to tackle the issue of second homes and fairer local taxation:

1. Second home proliferation is a problem which, according to the Brooks report, affects 22 wards out of 852; this has likely increased somewhat during the pandemic. Even so, unlike proposals for council tax and tourism tax, which allow discretionary taxraising powers to the local authorities most affected by second homes, this is all-Wales legislation.

How is this a reasonable and proportionate response to a serious but localised problem?

2. The EM states that it has limited evidence on which to draw to support the 182-day threshold as being effective, and no economic impact assessment has been done.

The Explanatory Memorandum confirms the evidence that Welsh Government has itself gathered is contradictory as to trends identifying demand for self-catering, the VOA stating that the trend from the 2019 high watermark was already heading downwards before the cost of living crisis hit.

The following extract summarises how limited Welsh Government's knowledge base is:

“Even if previous occupancy related to the new thresholds were known with confidence, it would not reveal how many of those would be able to increase their letting activity so that they do meet the new criteria by the time they take effect. This makes it difficult to estimate accurately the potential costs and benefits of this option”.

Noting that Welsh Government had no idea how many businesses would transfer from NDR to council tax, but not disputing the policy *aim*, how did you

- (a) assess the risks and benefits of this particular piece of legislation, particularly as it was introduced so swiftly and with such limited evidence collected by Welsh Government;
- (b) assess the chances of it fulfilling the policy aim, albeit as part of a suite of policies coming forward;
- (c) assess whether there would be a material risk to the policy aim were this particular change be removed from that suite of policies;
- (d) assess whether the order in which these and other proposed changes were introduced might be more or less effective in achieving the policy aim;

- (e) assess whether or not Regulatory Impact Assessments (RIAs) properly accounted for the effect on business of proposed legislation (para 13. Ministers' Business Scheme, s.75 GOWA 2006);
- (f) assess how much extra income this would make for each council in order to calculate whether the change was worth it (three examples of 'typical' businesses gives no indication of how many there are of each type); and
- (f) establish how many properties currently in use as both professional holiday lets and second homes are actually suitable as permanent dwellings?

3. The Explanatory Memorandum refers to sector-specific evidence from WTA, UK Hospitality and the Professional Association of Self Caterers, uncontaminated by casual lets of second homes. Regrettably, the explanatory memorandum is misleading, stating that 499 responses were received to the technical consultation

That was not an insubstantial body of detailed evidence. Even so, they were a just a sample of the 1500 responses from professional businesses. These were collected in record time once the sector knew about the 182-day decision, but it was not possible to anonymise them all by the closing date of the technical consultation. The offer was made to you to submit them once anonymised, if you wanted to see them. No such request was made.

Why did the Explanatory Memorandum not disclose

- (a) that more than 499 responses were offered to Welsh Government, but that 1000+ were not requested;
- (b) while 34% of the sector's respondents were able to reach the 182-day threshold at the high point of 2019 (which is different from the average figure presented by Welsh Government) ... they went on to say that only 16% would achieve that going forward;
- (c) the locations of the businesses on which Welsh Government relied for their evidence and the locations of those relied upon by the sector's evidence (this is material if the high-achieving businesses are in areas of high demand/second homes);
- (d) any of the reasons given in either Welsh Government evidence and the sector's evidence as to why the new threshold was unattainable for some businesses;
- (e) that the technical consultation was the only opportunity for views on the 182-day threshold to be shared: The original policy consultation sought views on changes to the occupancy and availability thresholds but that it might be as high as 182 days was not mentioned; and
- (f) how it had complied with its Para 16, Welsh Ministers' Business Scheme (supra) obligation to, as part of the policy formulation process, consider whether there was scope for exemptions or special provisions to reduce or eliminate any adverse impact on the business sector or the business sector's employees. NB: The exemption referred to in the EM relates to council tax premiums, not exemption from the 182-day threshold.

4. The initial consultation sought approval for raising the current availability and occupancy thresholds from the current 140 and 70 days respectively. Of the respondents who supported a rise, less than 1% of them suggested a 182-day occupancy threshold. The majority supported 105 days occupancy and 210

days availability (exceeding your challenge, declared later, to be open-for-trade for 6 months or more)

As the explanatory memorandum says, the government is not bound to accept the most common response to a consultation. A point the LCJ Committee brought out in its report, I suspect, because it prompts these further questions: Why

- (a) was a suggestion which pleased just nine respondents out of the 900+ responses one of the three options put to you;
- (b) did you not ask for the majority view of those who supported change to also be put to you as an option (105/210 days);
- (c) did you not ask for a 140 day option to be brought forward for your consideration as this is the average occupancy rate across the UK, and adopted in Scotland for similar policy purposes;
- (d) did you not, under the terms of the Welsh Minister's Business Scheme (supra), engage with the sector once you had formed a view that 182 days was an appropriate threshold;
- (e) was there no acknowledgement of the additional demands that the requirement to consult with business places on social partners, the representative bodies in this instance. "Therefore, in addition to ensuring that reasonable expectations are placed on social partners in the engagement process, the Welsh Ministers will assist the social partners' ability to engage by providing resources to facilitate engagement." (Welsh Ministers' Business Scheme, supra). No resources were offered;
- (f) did you not ask how many other small businesses in the NDR system are asked to be open - and busy - in the same way as opposed to how the VOA carries out business evaluations; and
- (g) did you assert that the application of a non-identified competition filter determined that the risk of significant detrimental impact on competition was low at the same time as stating "It is not possible to predict the number of businesses which may be impacted and how they might respond"?

5. The EM is says that there is no specific equalities impact, stating that it is not clear that women, particularly with caring responsibilities (and retired people) would be less able to let their property for more of the year than others and that there is no "sound evidence available in this regard". This shows a clear lack of understanding about how rural families participate in the economy and no appetite for seeking evidence, leading to an unsubstantiated assumption. The sector managed to get a small amount of evidence together at short notice, sufficient to suggest that Welsh Government should have explored this further.

What work did the self-declared feminist, pro-caring Welsh Government, with a commitment to gender budgeting, carry out to determine the impact of this policy on women?

6. A warning that legislation is coming is different from legislation being made. Anything can happen, and I understand that there was a delay laying the Order in order for the late evidence to be considered.

Why, when it was clear that the Order would be delayed, was it not amended to ensure that it only affected assessments carried out after the anniversary the law was made, rather than the arbitrary date of April 1st? That way, the relevant 12 months to be taken into account by the VOA would be in the post legislation period instead of partly within it and partly retrospective? Anyone assessed between 1 April 2023 and 25 May 2023 will be asked to apply a new law to a period which predates its coming into force.

7. Finally

- (a) What is the appeals process for businesses, especially those who will fall on different sides of the 182-threshold from year to year?
- (b) Will the threshold be averaged out where there is more than one unit on-site?
- (c) Why was no formal review period built into the Order to ensure that the impact of the legislation is addressed within a process which allowed for revocation should the monitoring and evaluation work reveal detriment/no benefit?

I appreciate this is a very long letter and understand it may take some time to receive a full response. However, I would be extremely grateful if you could cover the points raised as fully as possible to avoid the need to come back to you again

From: Minister for Finance and Local Government

Sent: 28 July 2022

To: Wales Tourism Alliance

Subject: Exemptions to the proposed amendment to the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

Thank you for your further letter regarding the classification of self-catering accommodation for local tax purposes.

I have noted the points raised in your letter of 22 June and which you discussed with my officials on 13 July. My previous reply of 9 June set out the Welsh Government's position in relation to some of the issues raised, so I will focus on those that were not previously addressed, as well as more recent developments.

The legislation in question was subject to a motion to annul, which was debated in the Senedd on 6 July. The Senedd voted against the motion, confirming support for the changes, which will ensure that the properties concerned are classed as non-domestic only if they are occupied for business purposes for the majority of the year. If they are let on a less frequent basis, they will be liable for council tax.

This policy is about property owners making a fair contribution to the communities where they have homes or run businesses. Self-catering operators above the thresholds will make their contribution through the higher economic activity they support. Operators below the thresholds will make their contribution through council tax, in the same way as those who do not meet the current thresholds. This, in turn, forms part of our three-pronged approach to addressing the impact that large numbers of second homes and holiday lets can have on communities.

The Welsh Government recognises that some businesses do not currently meet the increased criteria for days actually let, and that they consider it may be difficult to do so. There is, however, evidence that average occupancy of self-catering properties exceeded 50% over the three years prior to the pandemic. Many operators, in all parts of Wales, are already meeting the new criteria. We also consider it reasonable to expect genuine businesses to adopt a flexible operating model which maximises occupancy and economic contribution for as much of the year as possible.

In the context of the wider policy priority, to support sustainable communities and affordable housing, there is a limited evidence available in relation to the impact of any option – including doing nothing. I can assure you that the information provided by the sector has been considered. In my response to the debate on 6 July, I clarified the further steps the Welsh Government is taking, having listened to the representations from the sector.

I recognise that some self-catering properties are restricted by planning conditions preventing permanent occupation as someone's main residence. An exception from a council tax premium is already provided for one type of planning condition and I am exploring whether an exception should apply to other planning conditions. My intention is that any necessary changes are brought into effect from 1 April 2023, alongside the increased thresholds. It is important that statutory exceptions are clearly definable in legislation and would be appropriate in all circumstances where they apply. Planning conditions satisfy those requirements as they have their own legislative basis and, where they apply, will limit the options of property owners in a consistent way.

I will also be issuing revised guidance to local authorities on additional options that are available if self-catering properties restricted by planning conditions do not meet the thresholds. These options include discretion to reduce standard rate of council tax liability for certain properties, where considered appropriate by the local authority. Local authorities may apply this discretion to particular properties or to classes of property. Authorities could use this discretion for example to support operators in particular circumstances or facing particular challenges, which could include those you have suggested.

Many properties of the specific types you have suggested for exceptions will be subject to planning conditions preventing permanent occupation. Where a self-catering property does not meet the letting criteria and is not subject to such a condition, I want to ensure that local authorities have as much discretion as possible to consider the approach to take for the benefit of their communities. Some of the circumstances suggested for exceptions would not necessarily preclude owners from making their properties available for long-term let to a member of the local community, rather than continuing with short-term letting for less than half the year. I consider that our local taxation changes will help local authorities to incentivise the right balance between capacity within the self-catering tourism sector, and the economic benefits that brings, and supporting viable communities of local residents to live and work in these areas.

You have asked a number of specific questions about how properties would be classified and valued in specific circumstances. The assessment and valuation of

domestic and non-domestic property is a matter for the Valuation Office Agency (VOA), which is independent of Welsh Government. The VOA is responsible for classifying properties based on their use and will do so on a case-by-case basis, considering a range of evidence in more complex scenarios. Discussions have taken place at official level to ensure that the VOA is aware of the changes and the policy intent behind them.

The existing system of reliefs and exceptions, for both domestic and non-domestic properties, already provides for circumstances in which properties are unoccupiable due to refurbishments. There are also established routes of appeal for owners who consider that their property has been incorrectly classified and valued by the VOA.

My officials are preparing to monitor the impact of the changes following implementation, from 1 April 2023. Our Service Level Agreement with the VOA includes a requirement to monitor and report to the Welsh Government on movements between the non-domestic rating and council tax lists.

The occupancy challenge should be considered in the context of the wider package of measures which form our three-pronged approach to tackling the impact of second homes and holiday lets on communities in parts of Wales. Where second home owners let out their homes on an occasional and casual basis, they enter into direct competition with these same genuine businesses. We know that businesses providing self-catering accommodation share our concerns about the number and quality of casual operators entering the sector.

I recognise that these are complex issues which require a multifaceted and integrated response. Changes to the local taxes alone will not provide the solution. That is why the Welsh Government is putting a package of interventions, including changes to planning classifications and a statutory registration scheme for self-catering operators announced as part of the Co-operation Agreement on 4 July.

As we continue to progress the wider package of measures, we will keep under constant review the whole range of levers available to use and how they may be deployed most effectively to meet our policy objectives.

From: Minister for Finance and Local Government
Sent: 09 August 2022
To: Wales Tourism Alliance
Subject: Further queries re Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

Thank you for your further letter in relation to the classification of self-catering accommodation for local tax purposes.

There was a cross-over in the exchange of our most recent letters. You will now have received my reply of 28 July 2022, which followed your previous letter and your meeting with my officials. The recent exchanges we have had in relation to the Welsh Government's policy position on this matter have been comprehensive and I will not repeat that detail here.

You have asked a number of specific questions, which I have answered the annex to this letter. Some related questions have been grouped to answer.

In addition, our published [guidance](#) on non-domestic rates for self-catering properties has recently been updated, to reflect the changes that will take practical effect from 1 April 2023 and to include frequently asked questions from operators.

ANNEX – RESPONSES TO QUESTIONS

- 1. Second home proliferation is a problem which, according to the Brooks report, affects 22 wards out of 852; this has likely increased somewhat during the pandemic. Even so, unlike proposals for council tax and tourism tax, which allow discretionary tax-raising powers to the local authorities most affected by second homes, this is all-Wales legislation.**

How is this a reasonable and proportionate response to a serious but localised problem?

The Explanatory Memorandum and Regulatory Impact Assessment (RIA) for the Non-Domestic Rating (Amendment of Definition of Domestic Property) Order 2022 sets out the purpose and intended effect of the legislation, placing it in the context of the wider package of measures the Welsh Government is delivering through the three-pronged approach. The rationale for the approach has also been the subject of our recent exchanges of correspondence. The Order differs from other aspects of the approach, in that it provides for the underlying definition of property as domestic or non-domestic for local tax purposes, rather than dealing with the local application of specific powers.

An effective policy response to this complex and multi-faceted issue requires a combination of Wales-wide and locally-delivered interventions. The national and more localised aspects of our local taxation changes are complementary and should not be considered in isolation from each other, or from the wider set of measures, in delivering the overall policy objective.

- 2. The EM states that it has limited evidence on which to draw to support the 182-day threshold as being effective, and no economic impact assessment has been done.**

The Explanatory Memorandum confirms the evidence that Welsh Government has itself gathered is contradictory as to trends identifying demand for self-catering, the VOA stating that the trend from the 2019 high watermark was already heading downwards before the cost of living crisis hit.

The following extract summarises how limited Welsh Government's knowledge base is:

“Even if previous occupancy related to the new thresholds were known with confidence, it would not reveal how many of those would be able to

increase their letting activity so that they do meet the new criteria by the time they take effect. This makes it difficult to estimate accurately the potential costs and benefits of this option”.

Noting that Welsh Government had no idea how many businesses would transfer from NDR to council tax, but not disputing the policy aim, how did you

(a) assess the risks and benefits of this particular piece of legislation, particularly as it was introduced so swiftly and with such limited evidence collected by Welsh Government;

(b) assess the chances of it fulfilling the policy aim, albeit as part of a suite of policies coming forward;

(c) assess whether there would be a material risk to the policy aim were this particular change be removed from that suite of policies;

(d) assess whether the order in which these and other proposed changes were introduced might be more or less effective in achieving the policy aim;

(e) assess whether or not Regulatory Impact Assessments (RIAs) properly accounted for the effect on business of proposed legislation (para 13. Ministers’ Business Scheme, s.75 GOWA 2006);

The RIA sets out that, in the context of the wider policy aims, there is a limit to the available evidence in relation to any option – including doing nothing. The available evidence has been included in the RIA, which considers the potential costs, benefits and disadvantages of the options. This includes direct references to the potential impacts on self-catering businesses.

The Welsh Government’s three-pronged approach is based on a recognition that a range of measures is necessary to fulfil the policy aim. The Explanatory Memorandum acknowledges that the policy should be viewed as part of a wider programme of measures if its full intent is to be achieved.

Whilst it is not possible to assess the level of risk to the full policy intent if this measure were not adopted, not increasing the occupancy thresholds for self-catering accommodation would dilute or undermine the effectiveness of the other measures. This point is addressed in the RIA under the benefits of the policy, where it is clarified that it could increase the effectiveness of the council tax premium as a discretionary lever for local authorities, by ensuring that a transfer from the council tax to the non-domestic rating list is out of reach of second home owners who wish to retain their property primarily for their own private use. The importance of this policy, within the package of measures, is also reflected in the broad support for increasing thresholds that the original policy consultation received.

The Welsh Government is developing the wider suite of measures at pace. The need for a lead-in for the local taxation changes taking practical effect is exemplified by your later comments in relation to the period of notice afforded to property owners.

That is, in part, why this aspect of the wider package of measures is among the first to be progressed and will help to ensure that alignment with the implementation of the other measures being developed is as close as possible.

(f) assess how much extra income this would make for each council in order to calculate whether the change was worth it (three examples of ‘typical’ businesses gives no indication of how many there are of each type); and

As stated in the RIA, as it is not known how many properties might transfer between the non-domestic rating and council tax lists and it is not possible to estimate the overall implications for the local tax-base. The primary aim of the policy is not, however, to increase local tax revenue or provide financial savings to the Welsh Government, but to ensure property owners are making a fair contribution and to maximise the use of property, for the benefit of local communities. The examples provided are intended to assist property owners in considering the potential local tax implications of moving between property classifications, not to inform an estimate of overall implications. In determining whether to apply a council tax premium and at what level, each local authority needs to make an assessment of the potential impacts.

(g) establish how many properties currently in use as both professional holiday lets and second homes are actually suitable as permanent dwellings?

As stated in the RIA, the VOA has matched self-catering properties currently listed for NDR to a previous council tax band using standard data techniques and achieved an overall match rate of over 80%. With further work, the match rate could have been increased. The vast majority of self-catering properties have, therefore, previously been classified as domestic accommodation and liable for council tax.

The Welsh Government recognises that not all self-catering properties could be used as permanent dwellings. I have announced, and clarified in our recent exchanges, the work we are doing to explore further exceptions from the council tax premium and to update the relevant guidance for local authorities on the use of their discretion to reduce liability, where properties are not suitable as permanent dwellings.

3. The Explanatory Memorandum refers to sector-specific evidence from WTA, UK Hospitality and the Professional Association of Self Caterers, uncontaminated by casual lets of second homes. Regrettably, the explanatory memorandum is misleading, stating that 499 responses were received to the technical consultation

That was not an insubstantial body of detailed evidence. Even so, they were a just a sample of the 1500 responses from professional businesses. These were collected in record time once the sector knew about the 182-day decision, but it was not possible to anonymise them all by the closing date of the technical consultation. The offer was made to you to submit them once anonymised, if you wanted to see them. No such request was made.

Why did the Explanatory Memorandum not disclose

(a) that more than 499 responses were offered to Welsh Government, but that 1000+ were not requested;

The statement in the Explanatory Memorandum relates to the number of formal responses to the technical consultation. This is a standard component of any such document. In my statement of 24 May 2022, I expressed my gratitude to the sector for providing additional information you gathered from your members. I, and other Ministers, had sight of this information and I noted that the same themes were reflected in the formal responses to the technical consultation. I have assured you that the information provided by the sector has been considered and I have clarified the further steps the Welsh Government is taking, having listened to the representations from the sector and taking account of the views of other stakeholders, and the wider policy objectives in the context of the impact on communities.

(b) while 34% of the sector's respondents were able to reach the 182-day threshold at the high point of 2019 (which is different from the average figure presented by Welsh Government) ... they went on to say that only 16% would achieve that going forward;

The RIA included reference to the 34% of the sector's respondents who reported they have previously let their property for 182 days. The scale of this estimate could be validated by the Welsh Government as broadly similar estimates are available from other sources and also included. Future occupancy cannot, however, be predicted with accuracy and this is explained in the RIA.

As mentioned previously, one of the aims of our wider policy approach is to shift behaviours and increase the usage of properties for the benefit of communities. Another is that property owners should make a fair contribution to their local communities. We recognise that some self-catering operators may not attain the new thresholds. Our policy position is that properties should be classed as non-domestic only if they are used for business purposes for the majority of the year. If they are let on a less frequent basis, they will be liable for council tax. Self-catering operators who meet the thresholds will make a contribution through the higher economic activity they bring. Operators who are below the thresholds will be treated as second home owners and will make their contribution through council tax, in the same way as those who do not meet the current thresholds.

(c) the locations of the businesses on which Welsh Government relied for their evidence and the locations of those relied upon by the sector's evidence (this is material if the high-achieving businesses are in areas of high demand/second homes);

The Welsh Government did not rely on examples from particular locations as this might prove to be unintentionally disclosive. Those provided in Table 2 of the RIA are not real properties but illustrations, as is noted. The notional locations were chosen to illustrate a range of local authority decisions which might apply in relation to the use of a council tax premium. It would not be possible to present all the possible

permutations. The examples used do not reflect a reliance on evidence from specific areas.

(d) any of the reasons given in either Welsh Government evidence and the sector's evidence as to why the new threshold was unattainable for some businesses;

I take a different view from the premise suggested by this question. The key challenge raised by the sector related to seasonal and geographical variations in the possible levels of demand. This issue is explored in the RIA. Representations we have received from operators of multi-unit clusters, suggesting that some manage the occupancy levels for their properties in order to avoid their businesses from generating revenue which exceeds the VAT threshold, are also considered. Other common themes from the sector's objections to the policy related to the impact of increased local tax liability and barriers to the use of some types of property for domestic purposes, if they did not meet the occupancy threshold, rather than the reasons why it is considered unattainable. These themes are also included in the RIA.

(e) that the technical consultation was the only opportunity for views on the 182-day threshold to be shared. The original policy consultation sought views on changes to the occupancy and availability thresholds but that it might be as high as 182 days was not mentioned; and

The original policy consultation sought views on whether the letting criteria should be changed and did not suggest a specific alternative. It is usual to ask open questions in a consultation of this nature. A wide range of specific suggestions was received, the most common of which was 105 days actually let. However, many respondents suggested higher figures. Some respondents were of the view that all properties providing living accommodation should be classified as domestic and liable for council tax, or suggested letting criteria so high that they would have the same effect.

The Welsh Government was not duty bound to consult further on decisions taken following the consultation, but I did decide to hold the further technical consultation on the draft legislation to change the letting criteria. As noted above, a large number of views were provided by stakeholders, both within and outside of that technical consultation. I also met sector representatives during the technical consultation period, as did my officials.

(f) how it had complied with its Para 16, Welsh Ministers' Business Scheme (supra) obligation to, as part of the policy formulation process, consider whether there was scope for exemptions or special provisions to reduce or eliminate any adverse impact on the business sector or the business sector's employees. NB: The exemption referred to in the EM relates to council tax premiums, not exemption from the 182-day threshold.

As noted in my statement of 24 May 2022, I have listened to the representations on behalf of the self-catering sector and taken action as a result. The thresholds provide a common definition as to whether a property is treated as domestic or non-domestic

for local tax purposes. It is important that there is a consistent definition for determining whether a property falls within the council tax system or the non-domestic rating system. Other aspects of the local taxation system determine the actual liability for council tax or non-domestic rates and take account of a range of factors. However, creating exemptions from the basic definition could introduce unintended avenues for avoidance. The exceptions I am exploring in relation to council tax premiums are directly relevant, as they are part of the same local taxation system in which self-catering properties are already classified as domestic or non-domestic according to their use.

- 4. The initial consultation sought approval for raising the current availability and occupancy thresholds from the current 140 and 70 days respectively. Of the respondents who supported a rise, less than 1% of them suggested a 182-day occupancy threshold. The majority supported 105 days occupancy and 210 days availability (exceeding your challenge, declared later, to be open-for-trade for 6 months or more)**

As the explanatory memorandum says, the government is not bound to accept the most common response to a consultation. A point the LCJ Committee brought out in its report, I suspect, because it prompts these further questions: Why

(a) was a suggestion which pleased just nine respondents out of the 900+ responses one of the three options put to you;

(b) did you not ask for the majority view of those who supported change to also be put to you as an option (105/210 days);

(c) did you not ask for a 140 day option to be brought forward for your consideration as this is the average occupancy rate across the UK, and adopted in Scotland for similar policy purposes;

As noted in the RIA in relation to Option 2 (increase the letting criteria), other options for increased letting thresholds were considered, including 210 days available to let and 105 days actually let. The reason why lower thresholds were not pursued is also outlined. It is also acknowledged that an alternative option for increased thresholds would have similar advantages and disadvantages, but the costs and benefits would vary and the impact on the self-catering sector would be less pronounced.

(d) did you not, under the terms of the Welsh Minister's Business Scheme (supra), engage with the sector once you had formed a view that 182 days was an appropriate threshold;

As noted above, I held the further technical consultation on the draft legislation, received a large number of views from stakeholders and met sector representatives (including the Wales Tourism Alliance) during that period. I am aware that other Ministers and/or their officials have also engaged with the sector. The Welsh Government has responded to a large volume of correspondence received from the self-catering sector, providing clarification on a range of matters related to our local taxation changes.

(e) was there no acknowledgement of the additional demands that the requirement to consult with business places on social partners, the representative bodies in this instance. “Therefore, in addition to ensuring that reasonable expectations are placed on social partners in the engagement process, the Welsh Ministers will assist the social partners’ ability to engage by providing resources to facilitate engagement.” (Welsh Ministers’ Business Scheme, supra). No resources were offered;

A large volume of responses was received to both consultations, within the time available. The provision of resources to support representative bodies in responding to a consultation is not routine and no such support was requested. The Welsh Government has invested considerable time and resources in providing timely responses to queries and requests from sector representatives, during and after the consultation processes.

(f) did you not ask how many other small businesses in the NDR system are asked to be open - and busy - in the same way as opposed to how the VOA carries out business evaluations; and

Properties that are used for purposes other than the provision of living accommodation are not classified in the same way within the local taxation system. The wider tax-base does not have the same relevance to the policy aims. Most properties used for business and other non-domestic purposes can be readily identified as non-domestic and classified as such for local tax purposes. Particular issues arise in the case of self-catering accommodation as many of the properties in question could also be used as permanent living accommodation, and thus classified as domestic property and liable for council tax. Therefore, there is a need for a specific definition to distinguish between these uses for local tax purposes.

(g) did you assert that the application of a non-identified competition filter determined that the risk of significant detrimental impact on competition was low at the same time as stating “It is not possible to predict the number of businesses which may be impacted and how they might respond”?

The reasoning is clarified in the relevant section of the RIA.

- 5. The EM is says that there is no specific equalities impact, stating that it is not clear that women, particularly with caring responsibilities (and retired people) would be less able to let their property for more of the year than others and that there is no “sound evidence available in this regard”. This shows a clear lack of understanding about how rural families participate in the economy and no appetite for seeking evidence, leading to an unsubstantiated assumption. The sector managed to get a small amount of evidence together at short notice, sufficient to suggest that Welsh Government should have explored this further.**

What work did the self-declared feminist, pro-caring Welsh Government, with a commitment to gender budgeting, carry out to determine the impact of this policy on women?

The Welsh Government considered available evidence, which was found to be very limited, as data held from surveys and administrative sources do not include personal characteristics of the operators. The survey conducted by the sector is referred to in the RIA even though its robustness cannot be validated by the Welsh Government. The RIA recognises that there is a lack of sound evidence in relation to the possible impacts on particular groups, but makes no assumptions in this regard.

6. A warning that legislation is coming is different from legislation being made. Anything can happen, and I understand that there was a delay laying the Order in order for the late evidence to be considered.

Why, when it was clear that the Order would be delayed, was it not amended to ensure that it only affected assessments carried out after the anniversary the law was made, rather than the arbitrary date of April 1st? That way, the relevant 12 months to be taken into account by the VOA would be in the post legislation period instead of partly within it and partly retrospective? Anyone assessed between 1 April 2023 and 25 May 2023 will be asked to apply a new law to a period which predates its coming into force.

The statement on the three-pronged approach by the Minister for Climate Change in July 2021 set out the reasons for urgency and pace in addressing the issues affecting the availability and affordability of housing and the impact of large numbers of second homes and holiday lets on communities. This was followed by the initial policy consultation on potential changes to the local taxes over the summer of 2021, which set out the case for change. On 2 March 2022, more than 12 months before the changes take practical effect, I announced the outcome of our consultation on local taxes for second homes and self-catering accommodation. During the consultation period and subsequently, I have had discussions with stakeholders, responded to debates on the subject in the Senedd and answered questions from Members. Throughout this period, I have been clear about the Welsh Government's decision and the timing of changes. I recognise the importance of clarity and certainty for businesses in relation to the timing of changes.

The implementation date of 1 April 2023 has been selected for a number of reasons. It is the start of a new operating (financial) year for businesses and other stakeholders in the system. The date also coincides with the coming into effect of the latest non-domestic rates revaluation, ensuring that all self-catering properties in Wales have been assessed on the basis on the current letting thresholds in readiness for the new rating list being compiled and providing consistency in how they have been defined ahead of the new thresholds being applied. I am not aware of representations from the sector suggesting that operators do not make their properties available to let during April and May. It is occupancy outside of the spring and summer seasons which has been raised as a challenge.

In the context of the wider policy approach, it is also important to ensure that closely related interventions are aligned, particularly the two arms of the local taxation system. Local authorities will set any council tax premium on a financial year basis and the Welsh Government has been clear that the timings of these related policy changes within the local taxation system would align.

7. Finally

(a) What is the appeals process for businesses, especially those who will fall on different sides of the 182-threshold from year to year?

There are established routes of appeal for owners who consider that their property has been incorrectly classified or valued. An operator wishing to make an appeal should first [contact](#) the VOA. If agreement between the ratepayer and the VOA cannot be reached, the appeal may be considered by the Valuation Tribunal for Wales.

(b) Will the threshold be averaged out where there is more than one unit on-site?

The criteria apply to each individual unit of self-catering property rated separately by the VOA and this approach is not changing. If an operator has more than one unit of property at the same location or within very close proximity to each other and used for the same or connected businesses, as now it will still be possible to take an average for the number of days actually let, if some units are let for at least 182 days and others are not.

(c) Why was no formal review period built into the Order to ensure that the impact of the legislation is addressed within a process which allowed for revocation should the monitoring and evaluation work reveal detriment/no benefit?

It is not routine practice to build a formal review period into legislation. Our plans for post-implementation review are noted in the RIA. My officials are preparing to monitor the impact of the changes following implementation, from 1 April 2023. Our Service Level Agreement with the VOA includes a requirement to monitor and report to the Welsh Government on movements between the non-domestic rating and council tax lists.

In my statement of 24 May, I clarified that the Welsh Government will keep all policy levers under review, as we continue to progress the package of measures. However, I recognise the importance of clarity and certainty for businesses and consider it would not be helpful to suggest that the Welsh Government is likely to revise thresholds again in the short-term.

From: Wales Tourism Alliance (jointly with Mid Wales Forum, North North Wales Forum, PASC UK, South East Wales Forum, South West Wales Forum, UK Hospitality)
Sent: 25 August 2022 09:11
To: Minister for Finance and Local Government
Subject: Tourism Industry Collaborative letter to Rebecca Evans

Tourism Industry Collaborative letter

Please find attached a collaborative letter from the tourism industry representatives. Named organisations provided in alphabetical order as all have jointly agreed the contents.

INDUSTRY RESPONSE & QUESTIONS ON THE IMPACT OF THE 182 THRESHOLD

We are writing to you again to try to ensure that the economic impact of the 182-day threshold for real self-catering business in Wales is mitigated. We are not proposing measures that will let second homes slip through the net.

The business conditions across the sector are becoming very difficult, we are seeing energy bills rising by over 300%, insurance costs rising by 200% and demand slowing at best with nothing like the levels of business seen in 2019.

Our over-riding concern is that the combination of this 'cost of business' crisis and the wide range of impacts that the Welsh Government is introducing that directly affect genuine self-catering businesses in Wales, puts many under direct threat of closure and places all in a position of uncertainty and fear of failure. We are seeing an increase in calls that reflect the stress and threat to mental health that these measures are causing because they are afraid of losing their livelihoods and are unable to properly plan for the future.

It is essential for these many vulnerable members that we are able to resolve some outstanding issues around these measures.

So, we have compiled a short list of questions and requests for exemptions from premium council tax charges to which we urgently seek clear and concise answers, to help these businesses navigate through the coming months.

For clarity, we believe that these examples should be exempt from the 182-day rule and that their business status should be preserved. We still challenge the notion that a "one size fits all" policy is appropriate, taking in all businesses across the whole of Wales. After all, the Brooks Report showed that only 22 out of 852 wards reported issues with second-home proliferation. Many businesses and livelihoods will suffer in areas where second homes are a much lesser issue.

However, while we see no movement in the government's position on this, we note the repeated commitment to consider extending the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015, which prevent local authorities charging a council tax premium on six classes of "dwelling".

If they fail to meet the 182-day occupancy threshold, the following businesses (see further below) will become liable to pay council tax. We ask that they are included in the classes of “dwelling” for which a premium level of council tax would not be charged.

We seek your help to resolve the following points

The timescale for implementation:

You will be aware of our concern that the 182-day Order will apply retrospectively to properties which are assessed by the VOA between 1st April and 25th May 2023.

We understand that the ability to apply retrospective powers to Welsh Taxation is not within the current scope of UK or Welsh law. Indeed, we note that you are the sponsoring Minister for the Welsh Tax Acts etc. (Power to Modify) Bill. Under the scrutiny of the Senedd Legislative, Justice and Constitution Committee the following comment was received from Sir Paul Silk:

“My concern, when I first looked at this Bill, was that this was another example in areas that are particularly contentious—the areas of taxation—and the way in which the Bill also allows this to be done retrospectively, which is, I think, the first time that a piece of secondary legislation can retrospectively affect taxation powers. So, this is an example for me, therefore, of a more general concern that I have about the way in which the Executive is taking over functions that I think properly belong to the legislature.”

Could you offer clarification as to how a legal calculation period can be applied retrospectively back dated to the 1st April 2022? We believe that by having to legally prove 182 days plus in order to qualify for NDBR prior to the Order being added to the statute books on the 14th June 2022 is a retrospective imposition of the law. If this is not the case, then how can the law be enforced? As there is not currently the power to retrospectively apply an instrument then to do so would in effect be outside the bounds of the Welsh Government’s current powers.

What mechanism will businesses have to use to justify their achieving the set goals? What is the timetable for this? When will this be made public? What must be applied and submitted and when?

Where is the Regulatory Impact assessment?

In your response of the 11th August 2022, you refer to a Regulatory Impact Assessment (RIA). Please could you forward said RIA as we are unable to locate this document in previous correspondence or on the Government’s webpages? The summaries referred to in the Explanatory Memorandum cannot be said to constitute a RIA; we need to examine the detail of how those conclusions were reached.

Bearing in mind the frequent reference, in the Explanatory Memorandum, to the inability to carry out an economic impact assessment, we would like to establish whether the Welsh Ministers Business Code under the Govt of Wales Act (2006)

Section 75 has been breached. *‘13. The Welsh Ministers will ensure that capacity exists and is tasked with assessing whether or not Regulatory Impact Assessments (RIAs) have properly accounted for the effect on business of proposed legislation and of proposed policy changes that do not require legislation’.*

Even if the order had been added on the 1st April 2022, this would still not have given businesses the opportunity to undertake the necessary amendments to their business and marketing plans to raise the number of days from 70 to 182 days. It is only reasonable that a business be given at least eighteen months to plan and invest in order to raise the number of days booked. Visit Wales planning time is usually between 1 and 3 years prior to a new business year: -

https://gov.wales/sites/default/files/publications/2019-07/strategy-for-tourism-2013-to-2020-frame_work-action-plan-years-1-to-3.pdf

How can the immediate situation be improved?

If the Welsh Government is determined in its path to fully implement the 182-day threshold, then we plead with you to grant the following exemptions to mitigate the damage to Welsh self-catering businesses. As Finance Minister you must consider their well-being and ability to thrive.

Exemptions from Premium Council Tax requested:

Limitations by Planning Consent

We welcome that you are already seeking to clarify exemption for properties that are limited by planning permission and those that lie within the curtilage of an owner's primary residence with a view to amending local authority guidance. Please confirm the specifics of this exemption as soon as possible.

Farm Diversifications

We also anticipate, given the representations received from all affected, not least from the farming community, that farm diversification businesses will be exempt. We recognise that some may already be exempt under the 2015 Regulations, but not all.. Additionally, we anticipate that units, which are not housing stock withdrawn from the market but can be proved through recorded planning and building control to have been created from vacant agricultural buildings, will come under a further exemption. Please can you confirm the detail on this as soon as possible please?

Charities and Charitable donations

Self-catering Charities should be exempt and we hope and believe that would be acceptable under the Partnership Agreement with its social agenda. These businesses carry out vital work offering specialist holidays, breaks for those with special needs and those from low incomes.

As for businesses offering free weeks accommodation to charities who use them to provide accommodation to service users or to fundraise, we note the recent

amendment to exemptions and discounts arising from the Homes for Ukraine scheme. The same argument can be made for owners who show compassion by offering free weeks to charities. In short, if businesses exceed the 182 day occupancy threshold, they should not lose their business taxation status if the removal of these free weeks from consideration takes them below the threshold. We suggest that a maximum of two weeks per year (either for charitable status or not-for-profit organisations) plus days where they host refugees should also be included in calculating the 182-day total.

We would be more than happy to work together on the exact criteria for charities and charitable stays. Many of the charitable self-catering operators are dealing with guests with special needs and holidays for low-income families. Many of the businesses we represent give at least a week away to charitable causes, unless this is counted towards the 182 target many charities will suffer needlessly.

Requests have been made by your officers from within the Welsh Government in recent months to assist with the resettlement of Ukrainian refugees. It would certainly help with appeals if the industry could see assistance in the form of an exemption.

Larger resorts and complexes

Special attention does need to be paid to cottage businesses that are in effect "small resorts" or complexes. Sites that have multiple units on site owned by the same person, where facilities are provided for and shared by those staying on site. For example, if they have pools and games rooms, gyms, a play area, coffee shops.

VAT

We have asked that you consider businesses that are already past the VAT threshold to be exempt. Across self-catering in Wales less than 5% are registered for VAT. These businesses already have to absorb the 20% that the other 95% do not. You cannot charge more for a holiday cottage because of being VAT registered. There is a market price regardless, and these businesses are already making a substantial financial contribution to taxation compared to 95% of their peers.

Final points and Questions

1/ When do businesses have to start counting the 182 days from?

This is the most common and critical question on the hospitality forums and as referenced above, we believe that suggesting that measurement should start before the legislation was even passed into law is both retrospective, and dramatically reduces the ability for businesses who may be able to adapt, to do so. More background on this is covered earlier in this note.

2/ Multiple units and averaging

We are getting mixed answers on this from various Government sources. To be clear the question is as follows:

Example:

- A holiday 'complex' of four units, each is on the VO list:
- Two hit 180 days;
- Two hit 184 days.

Question: Is the business owner able to 'average' the four units to show 182 days and remain on Business Rates?

3/ Community, Childcare and Carers: destabilising a delicate social balance.

We remain extremely concerned that the Welsh Government has not taken into account, or been prompted to conduct any of its own research on, any of the information we have provided on how the 182 days will impact certain parts of society.

We included in the 'Body of Evidence' extracts from the survey on the impact of the increased threshold on Women and Carers. Women play a huge role in this sector, and in most cases are the driving force in these businesses. Many of them have other responsibilities too, most commonly childcare and caring responsibilities.

The full report can be accessed here. <https://bit.ly/3A3dyly>

A further survey has also shown that it will disproportionality affect people of a certain age. Key results are:

- The change in legislation will disproportionality harm those over 50 years of age, many of whom require income from FHL to supplement pensions. (In excess of 45% of FHL owners are over 60 and most have no alternative forms of income in their area);
- They will be impacted by this legislative change which threatens financial independence, leading to an inability to meet financial obligations thus creating pressures on other sectors as well as damaging tourism and increasing demand upon the NHS;
- Those running FHL's do so in order to: remain independent from the Welfare State, retain family homes or to balance the generation of income with caring responsibilities for family members;
- The majority of FHL cannot be sold as they are within the curtilage of a primary residence or are part of a wider diversification project.

The Survey results can be seen here: <https://www.pascuk.co.uk/wales-182-days-reports/>

Professional self-catering is still predominantly operated by older owners, and mostly in rural areas. The impact on them is likely to be substantial.

In conclusion

We are reporting that, sadly, already a great deal of goodwill and trust has been lost from the tourism industry toward the Welsh Government and its new co-operation partners. Members are deeply concerned by the apparent intransigence of the

Government over this issue and its refusal to listen to, what in many cases are, pleas for survival of legitimate businesses.

It would go a long way to mitigate these anxious responses if you were able to agree the very worthy exemptions to which we have drawn your attention. Our door is always open. We sincerely want to find some form of resolution to this escalating issue and one that limits the damage to authentic businesses that are part of the foundation of the Welsh Visitor Economy.

From: Minister for Finance and Local Government
Sent: 7 September 2022
To: Wales Tourism Alliance
Subject: Tourism Industry Collaborative letter to Rebecca Evans

Thank you for your letter in relation to the classification of self-catering accommodation for local tax purposes.

Your letter covers certain points and questions which I have addressed in my replies to [REDACTED] of 9 June, 28 July and 9 August. In particular, I have set out the Welsh Government's position in relation to the timing of changes to the letting criteria, their application in assessments by the Valuation Office Agency, exceptions from the council tax premium, and the assessment of potential impacts (including equalities considerations). I have also shared our detailed [guidance](#) on the operation of the letting criteria, which has been updated to reflect the implementation of the new letting criteria from 1 April 2023 and to include frequently asked questions. I will, therefore, focus on the additional points raised in your letter in this reply.

The letting thresholds apply nationally because they define a key aspect of the system, namely whether a property is treated as a domestic dwelling or a non-domestic holiday let for local tax purposes and, in turn, whether it is liable for council tax or non-domestic rates. Other aspects of the local tax system, such as the powers for individual local authorities to apply reductions, reliefs or premiums, allow the council tax and non-domestic rating systems to be tailored to local circumstances.

In relation to the legislative concerns you raise, in preparing the Non-Domestic Rating (Amendment of Definition of Domestic Property) Order 2022 we took account of all the relevant timing considerations, including the pressing need to address the issues presented by the large number of second homes and holiday lets in some communities. We concluded that the announcement and publication of the plans and legislation provided sufficient notice for local authorities, property owners and other stakeholders to prepare for the changes. The legislation was also scrutinised by the Legislation, Justice and Constitution Committee and its report, which is published on the Senedd website alongside the legislation, did not raise any technical scrutiny points.

I can confirm that the published document containing the Explanatory Memorandum (Part 1) also contains the Regulatory Impact Assessment (Part 2). My most recent reply to [REDACTED] addressed specific questions about both parts of the document which is available here: [EM/RIA](#).

I have listened to the views of your members and colleagues. The steps we are now taking to consider exceptions from council tax premiums and provide updated guidance to local authorities will take account of the views expressed about the types of properties which might be excluded from liability for premiums. As mentioned previously, the guidance will also clarify the other options available to local authorities, including their powers to reduce council tax bills for individual properties or classes of properties which they can tailor to local needs. The legislation and guidance will reflect the approach I have set out previously, and I can assure you that it will be my considered response to the range of views I have heard. I will make a further statement on the progress of this work in due course.

From: Wales Tourism Alliance (jointly with Mid Wales Forum, North Wales Forum, PASC UK, Sout East Wales Forum, South West Wales Forum and UK Hospitality)

Sent: 16 September 2022 15:56

To: Minister for Finance and Local Government

Subject: Tourism Partnership Response to your letter of the 7th September 2022

Please find attached the Partnership's latest response.

INDUSTRY RESPONSE: THE IMPACT OF THE 182 THRESHOLD

Many thanks for your response of the 7th September 2022 regarding our deep concerns about the economic impact of the 182-day threshold for genuine self-catering business in Wales. We remain very worried about the effect of this on local jobs and community sustainability. The Welsh Government's acceptance of the lack of an economic impact assessment, together with other gaps in the RIA, do not give our collective members confidence that your legislative process has done what it can to protect against business failures.

We wish to reiterate our great disappointment at the situation in which the industry (not just the self-catering sector) finds itself, as it appears from your response that Welsh Government and its Co-Operation Agreement partners are determined to retain the Order and the 182-day rule, without any exemptions to that Order. This is despite the rapidly deteriorating macro-economic conditions as we head toward Winter, where a temporary suspension might have been so helpful.

Accordingly, we urgently need clarification in relation to new exemptions to the current and pending premium council tax powers afforded to local authorities in order to provide comfort to beleaguered business owners. We are grateful that you are now taking steps to consider exceptions from council tax premiums that will take account of our views as expressed about the types of properties which might be excluded from liability for premiums. This would be in addition to guidance to clarify the other options available to local authorities, including their discretion to reduce council tax bills for individual properties or classes of properties, be that for personal circumstances or to respond to local needs.

Could you, therefore, clarify the timescale for announcing the types of properties that will be excluded and when you anticipate the guidance notes to be released?

We hope that the timetable includes the opportunity to review this with you personally, to assist in informing your development of that guidance. We would like a meeting with you in this Autumn term as part of a wider conversation on the development of a “Fairer Council Tax” policy for domestic properties.

As so many policy areas affecting tourism are interlinked, we would also like to share our combined members’ views on the cumulative impact of these changes on the industry to help you consider questions for future RIAs re: Tourism Tax, changes to the school year etc

From: Minister for Finance and Local Government

Sent: 04 October 2022

To: Wales Tourism Alliance

Subject: Tourism Partnership Response to your letter of the 7th September 2022

Thank you for your letter in relation to the thresholds for self-catering accommodation.

The Welsh Government is alive to the points you raise and recognises that some self-catering properties are restricted by planning conditions preventing permanent occupation as someone’s main residence. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 provide for an exception from a council tax premium for properties restricted by a seasonal occupancy planning condition preventing occupation for a continuous period of at least 28 days in any one year period.

I have listened to the views of your members and colleagues. We are now taking steps to consider exceptions from council tax premiums and provide revised guidance to local authorities. Our considerations will take account of the views expressed about the types of properties which might be excluded from liability for premiums. The guidance will also clarify the other options available to local authorities, including their powers to reduce council tax bills for individual properties or classes of properties which they can tailor to local needs.

I recognise your members are keen for clarification and I will notify you when we have an agreed date for issuing the consultations on proposals and revised guidance.

From: Wales Tourism Alliance

Sent: 28 October 2022 14:18

To: Minister for Finance and Local Government

Subject: timetable for announcement of exemptions to the new 182 Day Rule

1: Exemptions to the 182 Day Rule: You previously stated that you are now taking steps to consider exceptions from council tax premiums that will take account of our views about the types of properties which might be excluded from liability for

premiums along with guidance on options available to local authorities to reduce council tax bills for individual properties or classes of properties, be that for personal circumstances or to respond to local needs.

Please could you timetable as to when you anticipate announcing the exemptions to the current and pending premium council tax powers afforded to local authorities. Time is passing and we will soon be at financial year end, without those exemptions many businesses are going to struggle with setting their pricing in order to cover new charges and the huge increase in energy bills. Please can you give this your most urgent attention. We are still open to review this with you personally, to assist in informing your development of that guidance.

Information outside the scope of the request.

We have also long suspected that some of the figures that have and are being utilised by Welsh Government are flawed. The following are the figures you recently supplied under our FOL request in relation to in the Information and financial data relating to NDP Wales Order.

Table 2: Percentage of self-catering assessments let out 182 days or more (as per WG's proposed requirement)

Year (ending 31 March)	Sample size	% of assessments let for 182 days or more	Confidence interval
2020/21	128	9%	+/- 5%

We also have information provided from a sample size by 412 Businesses in Wales. The profile of these businesses have their own website and professional online booking system and they will generally perform at a higher booking rate than a casual let property. The days that properties were open to the public varied from a low of 60 days to a maximum high of 98. Nowhere could you have let a property a property during 2020/21 for 182 days. Therefore how was it possible that 9% of businesses were shown to have let for 182 days in 2020/21 as shown in your table 2 and these figures were then utilised to help justify the 182 day rule?

From: Wales Tourism Alliance (jointly with PASC UK and UK Hospitality)
Sent: 11 November 2022 13:21
To: Welsh Government Permanent Secretary
Subject: Fwd: Review of process Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

I'm sure you are aware that there is significant concern from within the Welsh professional self-catering industry regarding the passing of the above Order earlier this year. This email is a request that you undertake a formal review of the quality of the advice offered to the Finance Minister by her officials. It is not our intention to point the finger at individuals, but we do assert that there are failings of process

standard in terms of the evidence sought, gathered and presented to support the options put to the Minister.

This is the statutory instrument which changed the availability and occupancy thresholds which determine whether a property, which offers furnished holiday lets (FHL), is identified as liable to non-domestic business rates or council tax. The professional FHL sector welcomed the main consultation, agreeing that the thresholds should be raised to deter second home owners letting their properties for a short period of time to claim business status and small business rate relief. This practice is not supported by professional FHLs or the bodies which represent them. Regrettably, the decision following the consultation raised the threshold so significantly that it captured many professional FHLs as well, micro and small businesses whose viability is now under threat.

Throughout, we have been concerned about the robustness of the case made by Welsh Government for the new thresholds it chose to implement, especially as only nine respondents to the consultation alighted on the specific figures. The primary weakness is the lack of any evidence at all to show that the Order will increase the availability of affordable homes in tourism "hotspots", the stated aim (as part of suite of policies) of this legislation. Its other purpose, to ensure fairer local tax-take from operators (ie stopping property owners gaming the rates provision), was not supported by evidence that the Order would achieve this as no work was done to identify how many professional businesses would be lost in the process; lost businesses mean lost revenue from damaged supply chain businesses, plus empty properties for sale may be eligible for periods of exemption.

It is accepted in the government's own documentation that they did not know the number of properties this would affect nor how many legitimate businesses would be caught in the net. It admits in the explanatory memorandum that its own evidence base is contradictory and, as you will see from the Tables to the FOI referred to below, the VOA indicates that the number of businesses/casual lets (they make no distinction) presently achieving the new thresholds is not especially high. Further, we have seen no sign that evidence of damage to professional FHL business viability, work done by the sector as government had not done it, has been recognised. In short, there has been no economic impact assessment and the other impact information in the RIA is especially weak.

Welsh Government's response to the points we have raised has been that affected businesses should "change their business model", with less than a year to achieve over 100% increase in occupancy rates. This shows an astounding lack of understanding of the sector, very disappointing as responsibility for tourism was brought into Welsh Government soon after devolution.

All this has been exacerbated by surges in the cost of living for businesses and customers at the same time as the value of income has dropped due to inflation. None of this is reflected in any updated EM or RIA, even though fuel and energy costs were rising before the Order became law. Whether this would have been material is difficult to say as neither the Minister nor MSes had any information about economic impact in the first place.

We have now had the results of an informal peer review of the work undertaken by officials to advise the Minister. This is inevitably based on material in the public domain and sought through correspondence. While it has no status in and of itself, we urge you to consider the contents of Enclosure 10 and the points raised by two Grade 6 civil servants, with direct DCLG and Cabinet Office experience, notably in the preparation of evidence, EMs and impact assessments in a relevant policy area. Finally, this request makes no attempt to challenge the government's policy aims. It asks you to consider whether the Minister had the best-informed and best-balanced advice she might have in order to justify her specific decision. We also ask whether the EM and the RIA made available to MSes was sufficiently complete and of a standard which enabled them to understand the consequences of the draft Order.

We look forward to an acknowledgment of this email and a substantive response in due course. Please do not hesitate to contact us for any further information.

From: Welsh Government
Sent: 18 November 2022 15:03
To: Wales Tourism Alliance
Subject: timetable for announcement of exemptions to the new 182 Day Rule

Thank you for your email to Rebecca Evans MS, the Minister for Finance and Local Government, in relation to the classification of self-catering property for local tax purposes. I have been asked to respond on her behalf.

On 11 November, the Minister made a further statement on exceptions from a council tax premium and updated guidance for local authorities:
<https://gov.wales/written-statement-council-tax-consultations-draft-regulations-extend-exceptions-second-home>.

Information outside the scope of the request.

I can confirm that the Welsh Government has not used occupancy data for the years impacted by the coronavirus pandemic to justify the changes that have been made to the letting criteria from 1 April 2023. The Explanatory Memorandum and Regulatory Impact Assessment for the Non-Domestic Rating (Alteration of Definition of Domestic Property) (Wales) Order 2022 specifically considers occupancy data for years prior to 2020-21. The analysis provided by the VOA included data for more recent years for completeness, as it was readily available, but this has not been relied upon to support policy decisions.

From: Wales Tourism Alliance
Sent: 22 November 2022 11:45
To: Welsh Government
Subject: Quick query - 182 day rule multiple self-catering units

I have received a number of queries in relation to large complexes and the application of 182 day rule to sites that have multiple units on a site owned by the same person/company, with or without shared facilities for those staying on site (e.g.

pools and games rooms, gyms, a play area). There seems to be an assumption by these businesses, that a business with multiple units will not be subject to CT or the premiums on individual FHL units if they do not make the 182 day threshold. Is this correct?

I am completing the latest consultations, but it would be very useful if you could clarify this as correct or incorrect. Thanks.

From: Welsh Government
Sent: 30 November 2022 15:59
To: Wales Tourism Alliance
Subject: RE: Quick query - 182 day rule multiple self-catering units

Our [guidance](#) and FAQs cover this to the extent that the Welsh Government is able to, given that we cannot comment on how individual properties with specific circumstances would be classified. This is a matter for the VOA. The relevant question is copied below for ease of reference.

Which types of property do the changes apply to?

The types of property that are subject to the letting criteria are not changing. Self-catering properties subject to the existing criteria will be subject to the new criteria and individual operators should know whether they have previously been required to provide evidence of letting activity to the VOA, to be classified as non-domestic.

The letting criteria apply only to properties classified as self-catering holiday lets by VOA. The VOA is responsible for classifying non-domestic properties based on their use and there are numerous distinct classifications within the broad use category which includes hotels, hostels, guest houses, self-catering holiday lets and others. Properties not classified as self-catering holiday lets are not subject to the letting criteria. It is for the VOA to confirm on a case by case basis whether a property is classified as self-catering. If individual ratepayers do not know whether their specific property is currently classified based on the letting criteria, the VOA will be able to confirm this.

From: Welsh Government
Sent: 01 December 2022 07:15
To: Wales Tourism Alliance
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

Information outside the scope of the request.

The criteria apply on a continuous basis and the period should be thought of as a rolling 12 months, rather than a fixed period which is reset once annually on the same date. If compliance with the criteria is found to have lapsed, the VOA will seek to identify the specific date on which the criteria ceased to be met over the preceding 12 months. If compliance is subsequently achieved again, then the VOA will seek to

identify the relevant date from which a property should be relisted for non-domestic rates.

I hope that is clear.

From: Wales Tourism Alliance
Sent: 05 December 2022 14:50
To: Welsh Government
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

Are we correct in assuming that a business:

- would not be able to apply to go back onto Business Rates if in the previous year they had not hit the thresholds, until 252 days have passed from the beginning of the year. So from 1 April 2023 AND that 182 days have already been let.
- New businesses will also have to wait until they meet both thresholds.
- You would have to pay Council Tax until you go back onto Business Rates but would be able to re-claim any domestic rates paid in advance if you meet the actual days let (182) and days available (252) thresholds?

We note the following Scottish VOA Practise notes, are there practise notes available for Wales? If not when will they be available?

2023 practice note: https://www.saa.gov.uk/wp-content/uploads/2022/11/Self_Catering_Units_C17_23.pdf

From: Welsh Government
Sent: 12 December 2022 11:29
To: Wales Tourism Alliance
Subject: RE: and timetable for announcement of exemptions to the new 182 Day Rule

If I have understood your first point correctly, then it is not quite right. On 1 April 2023, a property will remain on the rating list (or be added to it) if it has met the new criteria over the preceding 12 months. It will not be necessary to wait until 252 days have passed and 182 days letting have been achieved after 1 April 2023, if the criteria have already been met.

New businesses will not be entered onto the rating list until all the criteria are met. For a new business to be classified as non-domestic prior to 1 April 2023, it would need to meet the existing criteria (140 days available and 70 days let). To be classified as non-domestic after 1 April 2023, it would need to meet the new criteria.

Local authorities will adjust council tax and NDR bills from the effective date of a listing change. Any council tax already paid in respect of a period after the effective date of a non-domestic classification will be refunded by the local authority.

This reflects the existing processes for the classification of such properties, with the only changes being to the criteria related to days available and let. The VOA's rating manual for self-catering accommodation is published on their website at the following link:

[Rating Manual section 5a: valuation of all property classes - Section 480: holiday accommodation \(self-catering\) - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/rating-manual-section-5a-valuation-of-all-property-classes-section-480-holiday-accommodation-self-catering)

From: Welsh Government

Sent: 12 December 2022 17:28

To: Wales Tourism Alliance

Subject: Review of process Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

Thank you for your letter of 11 November to the Permanent Secretary, asking him to commission a formal review of the quality of the advice offered to the Finance Minister by her officials because you believe that there are failings of process in terms of the evidence sought, gathered and presented to support the options put to the Minister.

The Permanent Secretary asked me to undertake the review which you requested, which I have done, and reported back to him with my findings. He has asked me to reply on his behalf.

I have reviewed all of the advice which was provided to Ministers in relation to the issue which you raise in your correspondence. This includes formal written submissions to the Minister as well as briefings for internal meetings with Ministers and the notes recording those conversations as well. I have also reviewed the key documents to which you refer in your letter.

I have not found any deficiencies or shortcomings in the advice which has been provided to Ministers. The matter of where the relevant thresholds should be set was clearly recognised as an important and sensitive matter and a considerable amount of time and discussion took place over a period where different options were considered and explored. Ministers were given access to all of the relevant material and the limitations in the data available were acknowledged and taken into account in the advice which was provided and in the deliberations of Ministers themselves.

I recognise that the Wales Tourism Alliance continues to have concerns about the decision of Ministers but I can confirm that that decision was reached on the basis of balanced advice and after consideration and discussion by Ministers, where they did take into account the views put forward by the Alliance. I recognise, as did Ministers at the time, the limitations of the data available but Ministers also took that into account when they made their decision as well.

I appreciate that this reply will come as a disappointment to you but having reviewed the advice provided to Ministers to assist them in making these decisions I cannot support your suggestion that there were failings of process.

From: Wales Tourism Alliance
Sent: 13 December 2022 16:49
To: Welsh Government
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

Thanks for your last response, yes I think you/we have understood correctly re: the first point.

However, just returning to your previous response, I have had a further query, what do you mean by a 'rolling year'? Please clarify, as from April 1st next year when the new threshold comes into force surely it will not be a rolling year?

'The criteria apply on a continuous basis and the period should be thought of as a rolling 12 months, rather than a fixed period which is reset once annually on the same date. If compliance with the criteria is found to have lapsed, the VOA will seek to identify the specific date on which the criteria ceased to be met over the preceding 12 months. If compliance is subsequently achieved again, then the VOA will seek to identify the relevant date from which a property should be relisted for non-domestic rates'.

From: Wales Tourism Alliance
Sent: 19 December 2022 10:30
To: Welsh Government
Subject: FW: timetable for announcement of exemptions to the new 182 Day Rule

We have revisited the FoI response of the 20th June 2022 - 'ATISN 16353 – Impact Assessments and Financial Data relating to The Non Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022' - <https://gov.wales/atisn16353>

Annex A. Table 1 & 2 has fairly small sample sizes and "indicative" figures which we believe were provided by the VOA. Why, in relying on 128 properties (and identifying findings as "indicative", does the VOA believe that these were more reliable than the dossier of information we (PASC UK, WTA and UKH) provided with a far greater number of properties?

Plus, what was the geographical spread of the sample size – i.e Coastal Honey Pot versus Inland rural?

...and supplementary to our question below which 365 day-period did the VOA choose to find that 9% of properties that managed 182+day occupancy during 2020-21? We still do not know how the VOA managed to come to this figure when it would not appear to have been legally possible.

Extract from above FOI response.

2020/21 128 9% +/- 5%

From: Welsh Government
Sent: 21 December 2022 08:42
To: Wales Tourism Alliance
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

When I referred to a rolling 12 months I was clarifying that the criteria apply continually. The criteria must be met on an ongoing basis, not only once a year on a static date. I explained that the VOA seeks to determine the specific date on which the criteria are met, or cease to be met, as the case may be.

You have asked questions about the data provided by the VOA and published in response to an FOI request. Your questions should be directed to the VOA as the Agency would be best placed to explain the background to its data. I should clarify that the VOA has made no statement on the reliability of information provided by other stakeholders.

From: Wales Tourism Alliance
Sent: 01 February 2023 12:17
To: Welsh Government
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

Thanks for your previous response.

We note the Minister in her recent statement <https://www.gov.wales/written-statement-second-homes-and-affordability-and-associated-pilot-six-month-update> refers to within any '12-month period' as you do below. We have been asked for a more detailed explanation of this – if I am correct this does not relate to the financial year, or a business's own chosen year. To be absolutely clear are you saying that your understanding is you (or VOA and the billing authority) could merely pick any day of the year and take twelve months from that date and they would have to prove the 182 days threshold. Correct?

If so then then how does that take into account seasonality as it would surely in practise mean a much higher threshold than 182 days at certain points in the year would need to be met in order to ensure compliance using the rolling method above?

Ministerial quote - 'The Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 has been made law. It amends the minimum length of time a property is required to be actually let in order to be listed for non-domestic rates rather than council tax. The threshold increases from the current 70 days to 182 days within any 12-month period'.

I take your point in relation to the VOA, but could you simply clarify whether the WG utilised VOA figures to make a determination or not?

From: Welsh Government
Sent: 14 February 2023 07:37
To: Wales Tourism Alliance
Subject: RE: timetable for announcement of exemptions to the new 182 Day Rule

I'm afraid there is nothing more I can add to the explanation I have already provided. The issue you suggest with respect to seasonality would only be valid if the assessment period was shorter than 12 months. Any 12 month period, regardless of the precise date on which it starts and ends, will cover in full every month of the year and, therefore, all parts of a seasonal cycle.

I can confirm the Welsh Government has not made any determination based on the figures in question.

From: Wales Tourism Alliance
Sent: 03 March 2023 11:31
To: Minister for Finance and Local Government
Subject: Exceptions to Council Tax Premium

WTA Response to the Written Statement: Council Tax Premiums: Regulations to Extend the Exceptions from Premiums

The WTA remains deeply concerned with your rapid reform of the industry by the Welsh Government in co-operation with Plaid Cymru.

To date, there has been no perceptible improvement to proposed policies as a consequence of ours and our partner's responses to the large number of consultations you have issued in preparation for policy change affecting the industry.

While most of that change (to date) affects the self-catering sector, our consultation responses reflect the business voice of all sectors of the tourism industry and all parts of Wales. This should be useful to you as it includes views and evidence from a wider perspective and alerts you to consequences outside the stated policy aim.

While we detect the influence of certain voices in your finalised proposals to date, it is difficult to identify any meaningful "working in partnership with the tourism industry" if you continue to ignore voices from the front line, the voices of businesses who have to actually deliver the visitor experience.

A case in point is Tuesday's announcement regarding further exceptions to local authorities' powers to charge premium rates of council tax on self-catering businesses which fail to reach 182 nights occupancy ("the Exceptions Policy"). Welsh Government may have been "pleased" to announce one further exception but, for the industry, it was another disappointment. This was not just for the self-catering sector, but the wider industry which understands the inter-relatedness of its component sectors. Once again, they ask why their expertise and experience seem to carry no weight.

Further, as your colleagues will know, we have been asking for some time when an announcement on the Exceptions Policy would be made. Even the Petitions Committee has kept a petition open for longer than usual to await your decision. April 2023 has been the dread date for self-catering properties since the 182-day rule was introduced and, until Tuesday, they had no idea what the consequences of a move to the council tax system might mean for them.

You have been advised, more than once, about the level of anxiety these small business owners have been experiencing as a result of the cumulative changes and it is irresponsible to introduce more uncertainty as deadlines approach.

Certainly, local authorities will have also felt at a loss with just **four weeks** to go. Despite recent assurances from the new deputy tourism minister, we remain extremely concerned about the lack of guidance as to how the new exception will be implemented.

Of course, we are grateful for the inclusion of the new exception for planning-restricted properties, and the removal of the explicit "short term" requirement. However, this was your position more than six months ago. **In your response to this email, please explain what has happened in that six months to justify the delay**, when there appears to have been no intention to allow further exceptions?

We also ask you to address these three points:

1. The Exceptions Policy, in connection with the 182-day rule, is part of Welsh Government's suite of policies to increase the availability of affordable homes for local people, in parts of Wales where second homes is an issue. The 182-day rule (despite its ultimately counter-productive threshold) acknowledged a difference between businesses and second homes, which may or may not engage in casual letting to visitors. What it did not do was identify which properties were capable of being occupied as homes and which were not.

While the new exception rightly acknowledges the role of planning restrictions in terms of the status of a property, it does not capture suitability for permanent occupation. In our numerous consultation responses, we have made the point that there is a considerable cohort of self-catering providers who offer visitor accommodation within the curtilage of their own property, usually small scale. They will not all be subject to - and will not have required at the time - restrictive planning conditions. They are unsuitable as permanent dwellings, not because of health and safety issues, but because of size, facilities and location: These cannot be used as primary residences.

As these properties cannot contribute to the stock of affordable housing, please explain why they were not afforded the same protection as those restricted by planning conditions from entering housing stock.

2. These properties are clearly not second homes either, but, nevertheless, are punished in the same way if they cannot secure 182-day occupancy. While some businesses will hit the 182-day target this April, many perfectly decent, professional businesses will not for reasons outside their control.

We understand the policy aim of "ensuring property owners make a fair contribution to the communities where they own homes or run businesses". The WTA has always made it plain that it supports fair taxation and welcomes effective, proportionate

measures to prevent gaming the local tax system. The 182-day rule is neither, but the point we make here is that these particular properties will end up contributing nothing to their communities.

If these properties end up attracting premium council tax liability, purely on the grounds of failing to meet the 182-day threshold, we are told by a growing number of owners that they will simply close their businesses.

This means that residents, local by definition, will lose an important income stream. It means that a particular type of quality visitor accommodation will become less available, reducing both choice and supply. It means fewer visitors supporting local amenities, attractions and businesses, reducing their ability to pay local taxes. It means a reduction in cleaning and maintenance work for local tradespeople. It means a reduction in the incentives for younger family members to stay local and pick up running the business from their parents.

It means that no separate council tax will be raised as the property owners will be sensibly advised to merge title with their primary residence as the business building no longer has a separate purpose

In combination, these measures will simply see a decline in the number of local-revenue generating livelihoods. **Please provide your economic impact assessment of the Exceptions Policy, which should include reference to the connection to the 182-day rule, together with estimated effect on income to the local authority from both these primary and the secondary sources referred to above.**

3. We are very disconsolate at the failure to acknowledge the particular role of self-catering properties of all sizes which are run for charitable purposes. With Welsh Government facing growing demand for mental health services, it seems careless and ungrateful to overlook the contribution that these organisations make; the same is true, of course, for organisations supporting other vulnerable people who benefit from a therapeutic break.

It remains our view that these properties should be exempt from the 182-rule completely and are yet to receive a credible answer as to why they have not been. We at least expect a credible answer why they should not be excepted from liability for any council tax premium as a matter of right.

In its consultation on the visitor tax, Welsh Government has expressed its view that properties used by - for example - Ukrainian refugees or women fleeing violence, should not be required to collect a tax which is ostensibly about contributing to community costs. We struggle to find a distinction on which Welsh Government can rely when it asks properties used to support equally vulnerable, temporary occupiers to pay a different tax for the same purpose.

Please explain why self-catering properties used for charitable purposes have not been included as an exception in the Exception Policy.

From: Minister for Finance and Local Government
Sent: 14 March 2023
To: Wales Tourism Alliance
Subject: Exceptions to Council Tax Premium

Thank you for your letter regarding my recent announcement on exceptions from council tax premiums.

I am grateful for the responses from tourism sector operators and representatives to our recent consultations on local taxes for second homes and self-catering accommodation. The Welsh Government has listened to the representations from the sector. While I understand that you remain opposed to some of our policy changes, I note that you welcome improvements that have been made as a direct consequence of consultation responses. I do not, therefore, consider it fair or accurate to claim that the Welsh Government has ignored voices from the sector. We have balanced these voices against the differing views from a range of other stakeholders.

My decisions to extend exceptions from a council tax premium and issue revised guidance to local authorities were a consequence of the views provided in response to our consultation on the legislation to implement the new letting criteria. Following responses to our most recent consultation on the legislation to implement further exceptions, I have amended the drafting of the legislation to ensure there are no unintended exclusions where a planning condition does not specify “short-term” holiday letting. These are clear actions I have taken in response to feedback from the sector.

There has not been a delay in confirming the Welsh Government’s policy on exceptions. Over the past six months, I have consulted on draft legislation to deliver the policy, considered the responses received and finalised the legislation following consultation. We have also revised and consulted on the associated guidance.

Your letter raises some of the same matters as previous correspondence. I have explained the Welsh Government’s approach to further exceptions from a council tax premium and the scope of those considerations. In particular, I refer you to my reply of 28 July 2022.

As I have set out previously, it is important that statutory exceptions are clearly definable in legislation and would be appropriate in all circumstances where they apply. Planning conditions satisfy those requirements as they have their own legislative basis and, where they apply, will limit the options of property owners in a consistent way. Some of the circumstances suggested for exceptions would not necessarily preclude owners from making their properties available for long-term let to a member of the local community, rather than continuing with short-term letting for less than half the year. It would depend on the individual circumstances of the property and the choices of the owner.

Where a self-catering property does not meet the letting criteria and is not subject to a planning condition, I want to ensure that local authorities have as much discretion as possible to consider the approach to take for the benefit of their communities. I consider that our local taxation changes will help local authorities to incentivise the right balance between capacity within the self-catering tourism sector, and the

economic benefits that brings, and supporting viable communities of local residents to live and work in these areas.

Revised guidance for local authorities on implementing and enforcing council tax premiums was published on 9 March. This highlights the discretionary powers and additional options that are available to local authorities if self-catering properties do not meet the letting criteria. These options include discretion to reduce standard rate of council tax liability for certain properties, where considered appropriate by the local authority. Local authorities may apply this discretion to particular properties or to classes of property. They could use this discretion, for example, to support operators in particular circumstances or facing particular challenges, which could include those you have suggested.

The examples given in the guidance, with respect to the use of discretion, are not exhaustive. Discretion may be considered appropriate in other cases where the owner's use of a property is restricted by circumstances not covered by an exception from the premium. This could include properties used wholly or mainly for charitable purposes, depending on the specific circumstances.

An Explanatory Memorandum and Regulatory Impact Assessment was [laid](#) before the Senedd, alongside the Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023.

From: Wales Tourism Alliance

Sent: 20 March 2023 11:47

To: Welsh Government

Subject: Urgent Query!! NDBR/Council Tax Hereditament Asset Valuation

If a property reverts to Council Tax having not achieved the 182 Day threshold the asset valuation for NDBR will not be appropriate.

The asset valuation for an NDBR is based on property rentals, the asset valuation for CT is based on Capital Value.

If the VOA/ Billing Authority uses the NDBR rating these are usually much higher, as they are generating income and this is reflected as such.

Example would be a one bedroomed lodge @ £900 per m2 for NDBR is £2600, whereas a nearby four bed house is £2150?

From: Welsh Government

Sent: 22 March 2023 07:07

To: Wales Tourism Alliance

Subject: RE: Urgent Query!! NDBR/Council Tax Hereditament Asset Valuation

Whilst both valuation for non-domestic rating and banding for council tax are the responsibility of the VOA, I can confirm that these constitute entirely separate methods of property assessment. It is not the case that a rateable value, determined for the purpose of non-domestic rating, would be used as the basis for banding the same property for council tax.

Part 2: Correspondence with other tourism and letting agencies

From: Mid Wales Tourism
Sent: 15 March 2022 11:40
To: Welsh Government
Subject: Changes to NDR Threshold - survey results

Just wanted to share the results of the survey that we have undertaken to gain an overview of business opinion on the changes to the NDR Threshold that will be applied to holiday let businesses from 2023 onwards. As you can see from the results there is considerable concern from a wide cross section of businesses currently on the NDR register that could find themselves moved to the council tax register, and, depending on which LA area they are in could be charged a premium of up to a maximum of 300%.

We do not know what economic impact assessment has been carried out by the WG prior to the announcement of the changes but would certainly be interested to know if this has been carried out as it seems likely that rural areas are likely to be impacted.

The survey is still open and the link below will automatically update the results if further respondents complete the survey.

Survey report - <https://eu.jotform.com/report/22062488996707004>

From: Welsh Government
Sent: 17 March 2022 13:32
To: Mid Wales Tourism
Subject: FW: Changes to NDR Threshold - survey results

Thank you for your email informing us about the survey regarding non-domestic rates thresholds and the classification of self-catering properties for local taxation purposes. As you may be aware, the Minister for Finance and Local Government [announced](#) plans to change the relevant letting criteria on 2 March 2022.

Views on the policy behind these plans were invited as part of a 12 week [consultation](#) looking at local taxes for second homes and self-catering accommodation. The consultation was open from 25 August to 17 November 2021 and received almost 1,000 responses. A summary of responses was published on 1 March. The views conveyed in the consultation, including those from respondents representing the wider tourism industry, clearly support a change to the criteria for self-catering accommodation to be classified as non-domestic. Respondents were of the view that the majority of genuine holiday accommodation businesses would be able to satisfy increased letting thresholds, and a wide range of possible alternatives were suggested. Increasing the thresholds will provide a clearer demonstration that the properties concerned are being let regularly and are making a substantial contribution to the local economy.

On 1 March, the Welsh Government launched a [technical consultation](#) on draft legislation, which will implement the announced change in criteria, to take effect from 1 April 2023. The legislation will amend the criteria required to be met before a domestic property may be classified as non-domestic for local taxation purposes. In any 12-month period, the numbers of days a property is required to be:

- actually let will increase from 70 days to 182 days; and
- made available to let will increase from 140 days to 252 days.

The consultation is open for six weeks, until 12 April 2022, and seeks views on the technical clarity of the legislation, rather than the policy approach which was consulted upon previously.

From: Mid Wales Tourism
Sent: 17 March 2022 15:22
To: Welsh Government
Subject: RE: Changes to NDR Threshold - survey results

Thank you for your prompt response.

I note that in the Welsh Government Consultation – summary of response number 44354, that the responses to Question 9 *‘If the self-catering thresholds were to be changed, what do you suggest the new thresholds should be’* that of the 121 responses to this question the indication was that the threshold for ‘Actually Let’ should be raised and that the most common suggestion was 105 days which would bring the threshold in line with the VOA. Only 9 responses indicated the threshold should be raised to 182 days. I also note that of the 974 responses to the consultation only 50 were from the self catering / B & B sector.

With only 9 responses to the WG consultation agreeing that the threshold for Holiday Let businesses currently on the NDR register should be raised from the current 20% occupancy to 50% occupancy level, the decision to raise the actual let criteria from 20 % to 50% occupancy without further analysis of the unintended consequences / effect on the tourism economy in rural areas, seems difficult to comprehend.

Can you confirm that when making this decision, the WG carried out due diligence in terms of the effect on the local economy / jobs / investment etc.

From: Welsh Government
Sent: 24 March 2022 12:24
To: Mid Wales Tourism
Subject: RE: Changes to NDR Threshold - survey results

Thank you for your further correspondence regarding non-domestic rates and the criteria for self-catering properties.

Views on the policy behind the plans to amend the criteria were invited as part of the 12 week [consultation](#) looking at local taxes for second homes and self-catering

accommodation. The Welsh Government has consulted on these proposals and has carefully considered the responses to that consultation and all relevant matters when reaching its decision, including relevant legal issues. The Welsh Government is currently carrying out a further [technical consultation](#) on the draft of the proposed Regulations.

When Welsh Government policy and subsequent legislation is made, subject to any changes arising from the technical consultation which is open until 12 April, it will be accompanied by a Regulatory Impact Assessment (RIA). Part of the policy making process includes the assessment of impacts, both positive or negative. Officials are currently considering the latest evidence available to inform the RIA.

The plans to increase the letting thresholds for self-catering accommodation form part of our three-pronged approach to tackling the issues that can arise from large numbers of second homes in communities and to helping people to live affordably in their local areas. As part of the Co-operation Agreement, we are taking immediate and radical action. The approach comprises a package of measures to provide support, make improvements to the regulatory framework, and ensure people make a fair contribution through the local and devolved tax systems.

The package includes the consideration of a range of options for enabling empty and underused properties to be brought back into use, increasing the availability of affordable housing and driving up standards. The Welsh Government is also working closely with the tourism sector to develop a system for the registration of tourist accommodation to ensure a level playing field for tourism businesses, provide clarity and assurance for visitors, and improve our understanding of the tourism offer.

From: Independent Hostels
Sent: 15 March 2022 15:50
To: Welsh Government
Subject: Changes to business rates in Wales

A number of our Welsh hostels are worried about rumours of changes to the business rates structure for businesses in Wales.

After being lumped in with second homeowners in the most recent covid funding, they are worried that our particularly unique sector of tourist accommodation will be similarly forgotten in the new definitions for business rates.

Due to the simple nature of bunkhouses and hostels they are very often unoccupied for long stretches of time in the winter. Many will close for the entire winter period. Others stay open but get few bookings for their basic accommodation in the colder months.

Hostels and bunkhouses hire out by the night (rather than the week) so it is very common for them to be empty mid week. With weekend booking being the majority. This produces lower occupancy levels compared to other self-catering accommodation.

Although bunkhouses and hostels might well have lower occupancy levels than many other forms of tourist accommodation, they are totally different to second homes. They are small businesses with owners living on site and play a vital role in the rural economy.

I am about to survey our membership for data to support these arguments. Please let me know if there is any particular data you would like me to gather.

From: Welsh Government
Sent: 28 March 2022 16:35
To: Independent Hostels
Subject: Changes to business rates in Wales

Thank you for your email to [REDACTED] about the treatment of self-catering properties for local taxation purposes. I am replying as the policy is led on by the Local Taxation policy division.

On 1 March, the Welsh Government launched a [technical consultation](#) on draft legislation, which will implement the announced change in criteria, to take effect from 1 April 2023. The legislation will amend the criteria required to be met before a domestic property may be classified as non-domestic for local taxation purposes. In any 12-month period, the minimum numbers of days a property is required to be:

- actually let will increase from 70 days to 182 days; and
- made available to let will increase from 140 days to 252 days.

These criteria apply only to self-catering properties, as classified by the Valuation Office Agency (VOA). The VOA are responsible for classifying non-domestic properties based on their use and there are numerous classifications within the broad use category which includes hotels, hostels, guest houses, self-catering holiday lets and others. Properties not classified as self-catering holiday lets are not subject to the letting criteria which the proposed legislation will amend. The Welsh Government is unable to comment on individual circumstances and property classifications. You may wish to discuss matters directly with the VOA, to clarify whether the requirements apply to your property.

The VOA can be contacted using their online web form at: [Contact VOA - GOV.UK \(www.gov.uk\)](#) or by phoning 0300 050 5505.

I hope you have found the above information helpful.

From: Independent Hostels
Sent: 04 April 2022 15:38
To: Welsh Government
Subject: RE: Changes to business rates in Wales

Thank you for your helpful email on this matter.

It is great that Hostels are exempt from the minimum number of days requirements.

A lot of our hostels are described as bunkhouses on VOA. These provide hostel-style accommodation indistinguishable from properties described as a hostel.

Can you tell me if Bunkhouses are exempt?

A few places are classified as campsite with premises. These are generally camping barns, which provide very basic accommodation.

Are these also exempt?

Thank you

From: Welsh Government
Sent: 05 April 2022 10:14
To: Independent Hostels
Subject: RE: Changes to business rates in Wales

Unfortunately, I am unable to advise or comment as the classification of properties is a matter for the VOA.

The VOA can be contacted using their online web form at: [Contact VOA - GOV.UK \(www.gov.uk\)](https://www.gov.uk/contact-voa) or by phoning 0300 050 5505.

From: Independent Hostels
Sent: 05 April 2022 10:50
To: Welsh Government
Subject: RE: Changes to business rates in Wales

I have just spoken with VOA and they can only help me with my own business rates valuation. I do not own a bunkhouse so have reached a impasse.

The query I have is with the wording below, from your email.

Can you tell me if the classification Bunkhouse, would be included in the same way as the classification Hostel shown as red in the text below?

The legislation will amend the criteria required to be met before a domestic property may be classified as non-domestic for local taxation purposes. In any 12-month period, the minimum numbers of days a property is required to be:

- actually let will increase from 70 days to 182 days; and
- made available to let will increase from 140 days to 252 days.

These criteria apply only to self-catering properties, as classified by the Valuation Office Agency (VOA). The VOA are responsible for classifying non-domestic properties based on their use and there are numerous classifications within the broad use category which includes hotels, hostels, guest houses, self-catering

holiday lets and others. Properties not classified as self-catering holiday lets are not subject to the letting criteria which the proposed legislation will amend.

From: Welsh Government
Sent: 06 April 2022 09:17
To: Independent Hostels
Subject: RE: Changes to business rates in Wales

The change in criteria only apply to properties classified by the VOA as self-catering. It is for the VOA to confirm on a case by case whether a property is classified as self-catering. For properties classified otherwise, the criteria do not apply.

If the current requirements to provide evidence of 140 days available to let and 70 days actually let, in order to be classified as non-domestic, do not apply to a particular property, then it will not be affected by the change to these criteria.

From: Mid Wales Tourism
Sent: 25 May 2022 12:01
To: Welsh Government
Subject: RE: Changes to NDR Threshold - survey results

Re: NDR Threshold – Exemptions

Following the announcement yesterday confirming that the NDR threshold for self catering / holiday let businesses will be increase from April 2023, we have had a number of queries from member businesses seeking clarification regarding the exemption for properties that have planning exemptions which do not allow for residential / long term let.

Can you confirm:

- whether the exemption for premium council tax charges for properties that have planning constraints (ie planning for holiday let only, not residential use) will be discretionary / applied at individual council level or will this apply pan-Wales.
- it is not clear from the announcement if holiday let properties (with planning for holiday let use only) that do not meet the new threshold, will still be liable to pay the standard rate of council tax.
- the timing of the change as I understand it will be from April 2023 but implemented from June 2022 – this is confusing. Can you clarify the exact date when the new threshold calculation will apply / start from.
- What other exemptions are under consideration

From: Welsh Government
Sent: 26 May 2022 09:04
To: Mid Wales Tourism
Subject: RE: Changes to NDR Threshold - survey results

I will respond to your queries in order as set out.

Firstly, the current exemption for council tax premiums for properties with planning constraints is set out in legislation and applies on a pan-Wales basis. This is known as a class 6 exemption and should already be applied by local authorities. Full guidance on the application of the exemptions and operation of council tax premiums can be found at: <https://gov.wales/sites/default/files/publications/2019-06/council-tax-on-empty-and-second-homes.pdf#:~:text=From%201%20April%202017%2C%20local%20authorities%20will%20be,decision%20to%20be%20made%20by%20each%20local%20authority> .

It should be noted that a revised version of the guidance will be published prior to 1 April 2023 to align with changes to the maximum level of premium and provide further clarity.

Secondly, any property, whether restricted by planning conditions, that does not meet the thresholds will be classified as domestic and become liable for council tax. Whether this is the standard rate only will be dependent on the individual circumstances of the property, including whether an exception applies.

Thirdly, the changes will take effect from 1 April 2023, with the Valuation Office Agency using the new criteria to assess properties from that date onwards. Any property assessed from 1 April 2023 onwards will be required to evidence 182 days actually let within the 12 months prior to the date of assessment.

Finally, the Welsh Government are considering the extent to which the current class 6 exemptions are appropriate. It should be noted that any changes in this area would be to widen the exceptions from a council tax premium, not to remove any. It is intended that any such considerations be carried out and, if required, legislation be in place for 1 April 2023.

I hope you have found the above information helpful.

From: Snowdonia Tourist Services Ltd
Sent: 26 May 2022 09:32
To: Welsh Government
Subject: Clarification Requested on The classification of self-catering accommodation for local tax purposes

Following the recent announcement by Welsh Government on the changes to non-domestic rates eligibility we'd appreciate some clarification on a few sentences in the document, which we feel are somewhat ambiguous yet vitally important. The Order will come into force on 14 June 2022 and have practical effect from 1 April 2023, applying the amended criteria from that day onwards. Property owners

intending to meet the amended criteria should aim to do so during the 2022-23 operating year, but compliance with the criteria will not be assessed until after 1 April 2023.

Are we to assume the period the VOA will take into account for meeting the criteria are April 2022 - April 2023 (ie the "clock is already ticking") despite the original legislation suggesting the changes will "not be retrospective", or will properties not be re-assessed until the new calendar year?

From: Welsh Government

Sent: 31 May 2022 10:10

To: Snowdonia Tourist Services Ltd

Subject: Clarification Requested on The classification of self-catering accommodation for local tax purposes

Thank you for your email to the Welsh Government about the classification of properties for local taxation purposes.

As you are aware, on 24 May 2022, the Minister for Finance and Local Government [confirmed](#) that the Welsh Government has made the Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022, as drafted and consulted upon. The legislation will come into force on 14 June 2022 and have practical effect from 1 April 2023, applying the amended criteria from that day onwards. Property owners intending to meet the amended criteria should aim to do so during the 2022-23 operating year, but compliance with the criteria will not be assessed until after 1 April 2023.

Any property assessed prior to 1 April 2023 will be subject to the criteria currently in place, that is to be actually let for at least 70 days and available to let for at least 140 days. Any property assessed after 1 April 2023 will be subject to the new criteria of actually let for at least 182 days and available to let for at least 252 days.

Each assessment of the letting criteria applies from the date on which it is made by the Valuation Office Agency (VOA). The VOA takes account of a range of evidence in assessing whether the criteria are met, but the assessment is based on records for the 12 months prior to the date of assessment (and the subsequent 12 months in the case of availability for let).

The assessment process is an established one – it is not being introduced as a result of the proposed legislative changes.

I hope you have found the above information helpful.

From: Sykes Cottages
Sent: 25 November 2022 11:02
To: Welsh Government
Subject: Business rates thresholds

I just have a few questions about the business rates thresholds for holiday lets:

1. If a holidaymaker cancels a ten day stay just a couple of days beforehand and it's too late for the owner to get another booking, would those ten days count towards the threshold of 182 days let? I appreciate if the owner cancelled you might deem them not to have let the property but the visitor cancelling means loss of income for the business but also potentially this double whammy. Given the policy is to evidence that it's a genuine business being run, presumably the visitor cancelling shouldn't affect those ten days counting given they were originally "let" as the regulations require?
2. If someone is assessed for business rates shortly after 1.4.23, say on 7.4.23, when looking back over the previous year so from 7.4.22 – 7.4.23 will they be assessed on 182 and 252 days despite the regulations only coming into force in June 2022 or will it be the 70 and 140 day thresholds?
3. Someone who holiday lets through Sykes would like to work with Sykes to donate their property to a disadvantaged family/ies for a free holiday of a week or more. They're concerned that any weeks they donate will not be treated as "commercially" let and so not contribute to their total number of nights let out commercially for the purposes of them being liable for non-domestic rates (i.e. business rates). Would the view be that because those weeks are donations for a good cause they wouldn't be penalised for doing so and those weeks could go towards their total of nights let out and made available? Of course the more weeks they donate the more concern they'd have if they weren't treated that way.

If you've got the answer for just one but not the others, would be great to just hear that one in meantime.

Thanks a lot for your guidance on this. Happy to talk through if useful or easier.

From: Welsh Government
Sent: 01 December 2022 12:57
To: Sykes Cottages
Subject: Business rates thresholds

Thank you for your email and the queries you have raised regarding self-catering properties and short-term letting criteria.

The Valuation Office Agency (VOA) is an Executive Agency of HM Revenue and Customs (HMRC) and has a statutory function to assess if properties meet the criteria to be rated as non-domestic. Valuation methodology is the responsibility of

the VOA. As such, the Welsh Government cannot comment on individual cases of assessment.

The VOA can be contacted on:
Email: nsohelpdesk@voa.gsi.gov.uk
Phone: 03000 505505

Or alternatively, they can be contacted via the following website:
Contact VOA - GOV.UK (www.gov.uk)

The letting criteria ensures that the properties concerned are classed as non-domestic only if they are occupied for business purposes for the majority of the year and let on a short-term commercial basis.

Please see the Non-Domestic Rates for Self-Catering Properties in Wales [guidance](#) for full details on the criteria and how the legislation operates.

I hope you find this information useful.

From: Sykes Cottages
Sent: 09 December 2022 12:33
To: Welsh Government
Cc: VOA
Subject: RE: Business rates thresholds

Many thanks for your reply. This morning I spoke with [REDACTED] from the VOA contact line you mentioned who informed me that all of the below queries (which are intended as general enquiries about last minute cancellations, what threshold for looking back to April 2022 and donating property stays) are matters of policy decided upon by the Welsh Govt. and that their methodology only follows what the Welsh Govt. decides on such issues. I can't find answers to the queries in the guidance linked below.

As an addition to the cancellations policy question, if a contract to let a property for a holiday are frustrated by legal requirements (e.g. regulations not to travel during the Covid pandemic) should they still be treated as let on a commercial basis? Given the policy is to test whether a property is being run on a commercial basis, with a view to the realisation of profit, surely when such contracts are frustrated by law outside the control of the visitor or the property owner, they should count towards the threshold?

Thanks a lot for your help with this.

From: Welsh Government
Sent: 13 December 2022 15:18
To: Skyes Cottages
Subject: RE: Business rates thresholds

Thank you for your further email.

The legislation does not specifically cover the treatment of cancellations. The VOA apply the criteria for a property being actually let based on historical information. As a cancellation would usually mean the property has not been let, it would not be expected to count towards the number of days actually let as part of the VOA's assessment process. Operators are required to provide evidence related to letting activity for consideration by the VOA.

All assessments after 1 April 2023 will be based on the new criteria of 252 days available and 182 days actually let. This is covered in the published guidance on non-domestic rates for self-catering properties shared in response to your previous email.

The legislation does not specifically cover the treatment of charitable donations of stays. However, the commerciality condition requires that the property must be let on a commercial basis with a view to making a profit. Any non-commercial lettings, for example lettings to family and friends for nominal amounts, are not likely to count towards commercial lettings considered by the VOA. The Welsh Government cannot comment in individual scenarios or cases of assessment.

The legislation used to classify self-catering properties for local taxation purposes has remained in place consistently, including during periods of disruption due the coronavirus pandemic. A sample of assessments undertaken by the VOA in relation to 2020-21 indicates that the majority of assessments continued to exceed 70 days let. Suspending the criteria could have had the unintended consequence of allowing second home owners to access financial support intended for businesses.

I hope you find this information useful.

Correspondence between the Welsh Government and local authorities

From: Welsh Government

Sent: 02 March 2022 11:11

To: Stakeholders (including local authorities and the VOA)

Subject: Ymgynghoriad ar drethi lleol ar gyfer ail gartrefi a llety hunanddarpar / Consultation on local taxes for second homes and self-catering accommodation

Ymgynghoriad ar drethi lleol ar gyfer ail gartrefi a llety hunanddarpar	Consultation on local taxes for second homes and self-catering accommodation
<p>Cysylltau:</p> <p>Rheolau treth newydd ar gyfer ail gartrefi: Rheolau treth newydd ar gyfer ail gartrefi LLYW.CYMRU</p> <p>Datganiad Ysgrifenedig: Datganiad Ysgrifenedig: Crynodeb o'r ymatebion: ymgynghoriad ar drethi lleol ar gyfer ail gartrefi a llety hunanddarpar (2 Mawrth 2022) LLYW.CYMRU</p> <p>A fydddech cystal ag anfon y neges hon at unrhyw un arall sydd â didd.</p>	<p>Links:</p> <p>New tax rules for second homes: New tax rules for second homes GOV.WALES</p> <p>Written Statement: Written Statement: Summary of responses: consultation on local taxes for second homes and self-catering accommodation (2 March 2022) GOV.WALES</p> <p>Please forward to any other interested parties.</p>

From: Welsh Government

Sent: 02 March 2022 11:13

To: Stakeholders (including local authorities and the VOA)

Subject: Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 - Ymgynghoriad Technegol ar y Gorchymyn Ardrethu Annomestig (Diwygio'r Diffiniad o Eiddo Domestig) (Cymru) 2022 drafft

Ymgynghoriad Technegol ar y Gorchymyn Ardrethu Annomestig (Diwygio'r Diffiniad o Eiddo Domestig) (Cymru) 2022 drafft	Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022
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Mae Llywodraeth Cymru wedi cyhoeddi canlyniad yr ymgynghoriad ar drethi lleol ar gyfer ail gartrefi a llety hunanarlwyo. Mae datganiad gan y Gweinidog Cyllid a Llywodraeth Leol ar gael yn:

<https://llyw.cymru/datganiad-ysgrifenedig-crynodeb-or-ymatebion-ymgynghoriad-ar-drethi-lleol-ar-gyfer-ail-gartrefi>

Mae ymgynghoriad technegol ar Orchymyn drafft wedi'i lansio. Mae'r Gorchymyn yn newid y ffordd y caiff llety hunanarlwyo ei drin at ddibenion trethiant lleol.

At ddibenion trethiant lleol, mae eiddo naill ai'n cael eu dosbarthu'n ddomestig neu'n annomestig. Mae eiddo domestig yn atebol am y dreth gyngor. Mae eiddo annomestig yn atebol am ardrethi annomestig, a elwir hefyd yn ardrethi busnes.

Er mwyn bod yn atebol am ardrethi annomestig, rhaid gosod llety hunanarlwyo ac mae ar gael i'w osod am gyfnod penodol o amser.

Rydym yn ymgynghori ar orchymyn drafft a fydd yn:

- Cynyddu nifer y diwrnodau y mae'n rhaid gosod yr eiddo o 70 i 182 diwrnod; a
- Cynyddu nifer y diwrnodau y mae'n rhaid i'r eiddo fod ar gael o 140 i 252 diwrnod.

Copi o'r dogfennau ymgynghori a'r ffurflen ymateb yn:

<https://llyw.cymru/gorchymyn-drafft-ardrethu-annomestig-diffiniad-o-eiddo-domestig-cymru-2022>

Dylech gyflwyno eich sylwadau erbyn 12 Ebrill 2022.

The Welsh Government has announced the outcome of the consultation on local taxes for second homes and self-catering accommodation. A statement from the Minister for Finance and Local Government can be found at:

<https://gov.wales/written-statement-summary-responses-consultation-local-taxes-second-homes-and-self-catering>

A technical consultation on a draft Order has been launched. The Order alters the treatment of self-catering accommodation for local taxation purposes.

For local taxation purposes, properties are either classified as domestic or non-domestic. Domestic properties are liable for council tax. Non-domestic properties are liable for non-domestic rates, also known as business rates.

To be liable for non-domestic rates self-catering accommodation has to be actually let and available to let for a set period of time.

We are consulting on a draft order which will:

- Raise the number of days the property must be let from 70 to 182 days; and
- Raise the number of days the property must be available from 140 to 252 days.

A copy of the consultation documents and the response form can be found at:

<https://gov.wales/draft-non-domestic-rating-definition-domestic-property-wales-order-2022>

Please submit your comments by 12 April 2022.

Ways you can respond

<p>Gallwch ymateb drwy</p> <ul style="list-style-type: none"> - Lenwi'r ffurflen ar-lein - E-bost: LGFR.Consultations@llyw.cymru - Post: Y Gangen Polisi Trethiant Lleol Parc Cathays Caerdydd CF10 3NQ <p>A fydddech cystal ag anfon y neges hon at unrhyw un arall sydd â didd.</p>	<ul style="list-style-type: none"> - Complete the online form - Email: LGFR.Consultations@gov.wales - Post: Non-Domestic Rates Policy Branch Cathays Park Cardiff CF10 3NQ <p>Please forward to any other interested parties.</p>
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From: Denbighshire County Council

Sent: 09 May 2022 10:43

To: Welsh Government

Subject: Some questions about the changes to the rules on second home ownership

I've had quite a few questions about the forthcoming changes to the rules around second home ownership. There's also a bit of confusion as to whether the threshold for number of days to let out your self-catering property have been finally agreed. Do you know who the best person is to contact about this?

A flavour of some recent questions:

a) What will happen to a business that is only open for the summer season? e.g. accommodation with stabling for horses - will the rule be applied pro rata to a 6 month period only?

b) Will the rule apply to accommodation on the same site as the owners own home? e.g. an annexe, outbuilding, lodges/roundhouses situated in the grounds?

c) [REDACTED] has stated that they have put plans on hold to build a lodge in their grounds until there is further clarification.

d) Concerns that the accommodation will not be let for the stipulated number of nights because they are not in a prime tourism area.

This raises the point that the regions with the greatest potential to reach the required number of nights booked (e.g. Snowdon/Gwynedd) are the areas which have the highest squeeze on accommodation stock, so how does this help free up housing stock?

e) Smaller accommodation units are easier to let year round as not dependent on school holidays/weekend lets. Would each unit be assessed separately or the average taken if more than one unit let out?

f) A member made the point that if they are charged the higher amount, then it would take all their summer holiday profit away, and they would close down their accommodation.

If the accommodation was situated on their own property, there would be no benefit of freeing up housing stock.

g) Is the tax to be applied retrospectively?

h) How are occupancy figures collected?

i) Given two years of pandemic, there are no "accurate" occupancy figures.

Best wishes,

From: Welsh Government

Sent: 17 May 2022 14:17

To: Denbighshire County Council

Subject: RE: Some questions about the changes to the rules on second home ownership

You raised a number of questions with colleagues on recently announced changes to the thresholds for classifying self-catering accommodation within the local taxation system. The questions have been passed to me, as the official responsible for the relevant policy area. I have provided brief responses to your questions below.

The technical consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 closed on 12 April. Responses are currently being analysed and the next steps will be announced as soon as possible.

a) What will happen to a business that is only open for the summer season? e.g. accommodation with stabling for horses - will the rule be applied pro rata to a 6 month period only?

The Welsh Government is of the view that for a self-catering property to be treated as non-domestic for local taxation purposes, it should operate as a business for the majority of the year. The proposed changes are intended, in part, to incentivise the greater use of such properties for business purposes and, where used to a lesser extent, these properties shall be liable for council tax. Where a property does not meet the proposed threshold of 252 days available to let and 182 days actually let, it will be classified as domestic for local taxation purposes and liable for council tax. The letting criteria are not pro-rated.

It is recognised that some self-catering properties are restricted by planning conditions preventing permanent occupation as someone's main residence. The

Minister for Finance and Local Government has confirmed that we are considering the issue of planning restrictions preventing permanent domestic use. An exception from the council tax premium already exists for properties subject to a planning condition preventing occupancy for a continuous period of at least 28 days within any one year period, which will continue to apply ([The Council Tax \(Exceptions to Higher Amounts\) \(Wales\) Regulations 2015](#)).

b) Will the rule apply to accommodation on the same site as the owners own home? e.g. an annexe, outbuilding, lodges/roundhouses situated in the grounds?

For self-catering accommodation, the occupancy conditions will need to be met, independently of conditions that may be set out in other areas of legislation. This would apply to holiday lets within the same curtilage as a primary home, and these may then become liable for council tax. It is recognised that some situations are complex and valuation officers will need to assess a range of evidence in determining whether property is being used for domestic or non-domestic purposes.

The Welsh Government is not in a position to say what might apply in particular circumstances. For local tax purposes, it would depend on how a property is used, and whether it is valued as a single unit or as separate units by the independent Valuation Office Agency. The owner would also need to take account of any legal conditions which might apply to property.

c) A member has stated that they have put plans on hold to build a lodge in their grounds until there is further clarification.

The Welsh Government is not in a position to comment on individual circumstances. A number of possible behavioural changes may occur amongst owners of second homes and self-catering accommodation, in response to the changes. It will be for individual property owners to consider the approach to take.

d) Concerns that the accommodation will not be let for the stipulated number of nights because they are not in a prime tourism area. This raises the point that the regions with the greatest potential to reach the required number of nights booked (e.g. Snowdon/Gwynedd) are the areas which have the highest squeeze on accommodation stock, so how does this help free up housing stock?

The Welsh Government recognises this will have differing impacts in different localities. When the legislation is made, subject to any changes arising from the technical consultation, it will be accompanied by a Regulatory Impact Assessment (RIA). The RIA will make use of all available information and will demonstrate the Welsh Government's consideration of the potential impacts of the legislation.

As part of the Co-operation Agreement with Plaid Cymru, the Welsh Government is taking immediate action to address the impact of second homes and unaffordable housing in communities across Wales, using the planning, property, and taxation systems. We recognise that these are complex issues which require a multifaceted

and integrated response. Changes to the local taxes alone will not provide the solution. That is why we are developing a package of interventions.

e) Smaller accommodation units are easier to let year round as not dependent on school holidays/weekend lets. Would each unit be assessed separately or the average taken if more than one unit let out?

The provision introduced by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016 will continue to apply with the increase to 182 days, whereby an average for days actually let can be taken where multiple properties operated by the same business exist on a singular site.

f) A member made the point that if they are charged the higher amount, then it would take all their summer holiday profit away, and they would close down their accommodation. If the accommodation was situated on their own property, there would be no benefit of freeing up housing stock.

Further to the relevant responses above, all properties providing self-catering accommodation, whether within the curtilage of a primary residence or otherwise, are classified for local taxation purposes according to the same criteria, and this is not a new principle.

g) Is the tax to be applied retrospectively?

No. Each assessment of the letting criteria applies from the date on which it is made by the VOA. The VOA takes account of a range of evidence in assessing whether the criteria are met, but the assessment is based on records for the 12 months prior to the date of assessment (and the subsequent 12 months in the case of availability for let). The assessment process is an established one – it is not being introduced as a result of the proposed legislative changes. There are no plans to change the assessment process. The only change would be to the number of days the VOA takes into account in making its assessment.

h) How are occupancy figures collected?

We do not currently hold detailed data on the levels at which self-catering properties are occupied. Data on the definition of self-catering properties is collected and held by the Valuation Office Agency as part of its independent role in maintaining the tax-base for non-domestic rates and council tax. While the VOA obtains information from individual ratepayers for the purpose of accurately classifying self-catering properties, data are not currently available to analyse for wider purposes.

i) Given two years of pandemic, there are no "accurate" occupancy figures.

Limitations on the availability of evidence related to occupancy levels do not prevent the Welsh Government from introducing changes. The evidence that is available will be included in the RIA. Historic occupancy is not necessarily a predictor of future occupancy, particularly in the context of an intervention that is intended to incentivise behaviour change and the increased use of under-utilised properties, for the benefit of local communities. Moreover, the changes to the local taxes will operate as part of

the wider package of measures which form our three-pronged approach to tackling the impact of second homes and holiday lets on communities.

From: Flintshire County Council

Sent: 11 May 2022 09:47

To: Welsh Government

Subject: RE: Grŵp marchnata cyrchfannau awdurdodau lleol / Local authority destination marketing group

Please see attached a summary of the type of queries we are receiving from businesses about the new tax rules for second homes from April 2023.

You are very welcome to share the attached summary with any of your WG colleagues. Thanks for picking this one up, very helpful.

From: Welsh Government

Sent: 17 May 2022 14:20

To: Flintshire County Council

Subject: RE: Grŵp marchnata cyrchfannau awdurdodau lleol / Local authority destination marketing group

You raised a number of questions with colleagues on recently announced changes to the thresholds for classifying self-catering accommodation within the local taxation system. The questions have been passed to me, as the official responsible for the relevant policy area. I have provided brief responses to your questions below.

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From: Welsh Government

Sent: 25 May 2022 08:44

To: Stakeholders (including local authorities and the VOA)

**Subject: Crynodeb o'r Ymatebion o'r Ymgynghoriad Technegol Hunanarlwyo /
Summary of Responses from the Self-Catering Technical Consultation**

Crynodeb o'r Ymatebion o'r Ymgynghoriad Technegol ar y Gorchymyn Ardrethu Annomestig (Diwygio'r Diffiniad o Eiddo Domestig) (Cymru) 2022 drafft	Summary of Responses from the Technical Consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022
<p>Cynhaliwyd ymgynghoriad technegol ar Orchymyn Ardrethu Annomestig (Diwygio'r Diffiniad o Eiddo Domestig) (Cymru) 2022 drafft ("y Gorchymyn") rhwng 1 Mawrth a 12 Ebrill 2022. Roedd yr ymgynghoriad yn gofyn am farn ar eglurder a gweithrediad ymarferol y ddeddfwriaeth ddrafft.</p> <p>Mae'r crynodeb o'r ymatebion ar gael yn: https://llyw.cymru/gorchymyn-drafft-ardrethu-annomestig-diffiniad-o-eiddo-domestig-cymru-2022</p> <p>Mae datganiad ysgrifenedig sy'n nodi'r camau nesaf ar gael yn: https://llyw.cymru/datganiad-ysgrifenedig-dosbarthu-llety-hunanddarpar-ddibenion-treth-leol</p> <p>A fyddechystal ag anfon y neges ymlaen at unrhyw un arall allai fod â diddordeb.</p>	<p>A technical consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 ("the Order") ran from 1 March to 12 April 2022. The consultation sought views on the clarity and practical application of the draft legislation.</p> <p>The summary of responses is available at: https://gov.wales/draft-non-domestic-rating-definition-domestic-property-wales-order-2022</p> <p>A written statement setting out the next steps is available at: https://gov.wales/written-statement-classification-self-catering-accommodation-local-tax-purposes</p> <p>Please forward to any other interested parties.</p>