



Llywodraeth Cymru
Welsh Government

PUBLICATION

Consultation on local taxes for second homes and self-catering accommodation

We want your views on possible changes to local taxes. To help local authorities manage the impact of second homes on self-catered accommodation.

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Foreword

There has been considerable coverage and debate over recent years about the availability of affordable housing in Wales, particularly for young people, and linked to this, the levels of second homes and self-catered holiday lets in some communities. Although not a pan-Wales issue, the numbers of second homes and holiday lets have provoked strong feelings in parts of Wales. We are keenly aware of the challenges being faced and have already made clear strides towards addressing them.

We recently **welcomed** the balanced and timely report by Dr Simon Brooks

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Second homes: developing new policies in Wales. The report has proved invaluable in setting out the adverse impact that disproportionate numbers of second homes and holiday lets can have on communities, particularly in the context of the Welsh language. The recommendations have been particularly useful in underpinning the actions we intend taking to tackle these challenges head on.

Ensuring that local people can live affordably in the communities in which they grew up, and the health and vitality of Welsh as a thriving community language, are top priorities for the Welsh Government. Our **Programme for Government** includes a number of commitments in this regard, not least the hugely ambitious pledge to deliver an additional 20,000 low carbon homes for social rent across Wales and the development of a Welsh Language Communities Housing Plan.

On 6 July the Minister for Climate Change, Julie James MS, set out an “**ambitious three-pronged approach**” to address issues of affordability and the impact of second homes and holiday lets on communities and the Welsh language. As part of this work, we are looking at possible changes to local taxes to support local authorities in managing the impact of second homes and self-catered accommodation in their areas. This consultation focuses on these aspects: other areas set out in the approach will be subject to separate consultation. We have limited information about the impact of local taxes in influencing wider issues such as the housing market, the availability of affordable housing, the provision of tourist accommodation and the use of the Welsh language, particularly if used in isolation. These are complex matters which vary greatly in their impact across Wales, and any changes to the local taxes will need to be considered alongside the other measures set out in our wider approach.

We encourage everyone in the communities affected and elsewhere in Wales, whether they live, run businesses, own property, or deliver public services here to respond to this consultation.

Minister for Finance and Local Government

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Introduction

We recognise the value of visitors and tourism to the economy to Wales and we recognise that sustainable communities are also evolving communities. We do not wish to interfere with people's freedom to live where they choose but equally we do not wish imbalanced market conditions to impinge on people's freedom to choose where they live. Second home owners and people who stay in holiday lets can make an important contribution to our local economies and we in Wales cherish our reputation as a welcoming society.

However we also recognise the impact that higher numbers of second homes and self-catered holiday lets can have on local housing markets and on the sustainability of local communities, particularly in areas where properties are not occupied for parts of the year.

We want to ensure that all home owners and businesses make a fair contribution to the communities in which they own or let property. That is why we are reviewing the arrangements for the local taxes, council tax and non-domestic rates.

This review will include consideration of the discretionary powers given to local authorities to apply council tax premiums to second homes and long-term empty properties and the thresholds and criteria which classify self-catering accommodation (holiday lets) as non-domestic properties. There is limited evidence as to the effectiveness of adaptations to the local taxes when it comes to influencing the housing market, and the availability of and the use of domestic property, particularly if used in isolation. It is not clear that further changes to the local taxes alone would have a direct or substantial effect on the numbers of second homes or on the impact of second homes or self-catered holiday lets on communities and the use of the Welsh language. But it is important that we consider all the levers available to us in addressing issues of affordability and the challenges facing our communities and the Welsh language. The responses to this consultation will be considered alongside the other measures set out in our **“three-pronged approach”** to ensure we take as comprehensive and integrated response as possible in tackling this complex set of issues.

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As well as hearing from people living in communities affected by higher numbers of second homes and holiday lets, we also welcome views and evidence from all interested parties, including local public service providers and people working in the tourism industry. All responses will inform the consideration of potential changes to the local taxes to support local authorities in managing the impact of second homes and self-catered accommodation in their areas.

Definitions

There is no single definition of what constitutes a second home or a commercial holiday let. However within the local taxation system, the legislation draws a clear distinction between such properties. A property is classified as domestic (property wholly used as living accommodation) or non-domestic (all other property, including property used for business, public, infrastructure and not-for-profit purposes).

The assessment as to whether a property is classed as domestic or non-domestic is made by the independent Valuation Office Agency (VOA).

Domestic properties, including second homes kept for the owner's use, fall within the council tax system. Non-domestic properties, including self-catered holiday lets which meet the statutory criteria, fall within the non-domestic rating system. More information about these definitions and the way they are applied is given in the relevant sections of this consultation.

Council tax premiums on second homes and long-term empty properties

This section of the consultation seeks views on policy and practical considerations about the discretionary powers which allow local authorities to apply a council tax premium to second homes and long-term empty properties.

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The current position

Sections 12A and 12B of the Local Government Finance Act 1992 (as inserted by the Housing (Wales) Act 2014) contain provisions giving local authorities the discretionary power to levy premiums of up to 100% of the standard rate of council tax on long-term empty homes (empty for more than a year) and dwellings occupied periodically in their areas. Local authorities have been able to decide to charge these premiums since 1 April 2017. Wales is currently the only part of the UK which has provided these powers in relation to both types of properties. The 100% limit can be amended through regulations.

The discretion given to local authorities to charge a premium was intended to be a tool to help local authorities to:

- bring long-term empty homes back into use to provide safe, secure and affordable homes; and
- support local authorities in increasing the supply of affordable housing and enhancing the sustainability of local communities.

The powers were intentionally introduced as discretionary powers to enable local authorities to take account of the different circumstances across Wales and within individual local authority areas. The decision is a matter for each local authority. In considering whether or not to charge a premium, local authorities should have regard to these aims. Authorities should also take into account the particular housing needs and circumstances in their area.

The legislative framework

The basis for the council tax system in Wales is set out in the Local Government Finance Acts of 1988 and 1992. The council tax system does not specifically identify empty or second homes as separate, defined classes.

Most domestic properties are occupied and used as someone's sole or main home, and they are subject to the standard rate of council tax for the area (before any discounts or reductions). All other domestic properties which are not

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someone's main residence, including empty properties, could be regarded as 'second homes'. However this would include properties such as empty dwellings undergoing repair rather than just meaning properties which the owner keeps for their own occasional use. So, for the purposes of council tax and this consultation, a 'dwelling occupied periodically' is a property, which is not a person's sole or main home and which is substantially furnished. For ease of reference we refer to these as 'second homes'.

Based on this definition, official council tax dwelling data indicate there are just under 24,900 chargeable second homes in Wales in the financial year from April 2021 to March 2022. This figure includes dwellings such as seasonal homes (eg lodges and chalets), caravans, job-related dwellings and dwellings being marketed for sale. This equates to 1.8% of all chargeable dwellings in Wales but the percentage varies between authorities, from 0% in a number of areas to 9% in Gwynedd. The number of chargeable empty properties in Wales is slightly higher, at 25,700, and also accounts for 1.8% of the total but the variation between authorities is more even, ranging from 0.7% in Wrexham to 3.3% in Carmarthenshire.

The council tax system incorporates a number of specific exemptions from council tax, for example for empty dwellings undergoing repair. A dwelling that is exempt from council tax is not liable for a premium. However, where a dwelling becomes no longer eligible for an exemption and remains unoccupied, it may become liable for a premium. In the case of an empty home, it will be liable for a premium after it has been empty and substantially unfurnished for a continuous period of one year.

The provisions in the Housing (Wales) Act 2014 are supported by regulations which specify certain classes of long-term empty and second homes which cannot be charged a premium, for example caravans and job-related dwellings. The definitions and exceptions are set out in detail in the Welsh Government's [Guidance](#) on the implementation of the premiums.

The case for change

The decision to apply a premium, and the level at which to apply it, is a matter

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for each local authority. To date, 11 authorities have chosen to apply premiums to second homes or long-term empty properties, or both. Table 1 summarises the position for the financial year from 1 April 2021 to 31 March 2022.

Table 1: Authorities charging council tax premiums in the financial year from April 2021 to March 2022

	Long-term Empty Property (premium percentage)	Second Homes (premium percentage)
Isle of Anglesey	100	35
Gwynedd	100	100
Conwy	50	25
Denbighshire	50	50
Flintshire	50	50
Wrexham	50	0
Powys	50	50
Ceredigion	25	25
Pembrokeshire	25 to 100	50
Swansea	100	100
Cardiff	50	0

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Premiums are now being paid on over 15,800 of the 24,900 second homes liable for council tax in Wales and on 7,300 of the 25,700 long-term empty properties. The remaining second homes and long-term empty properties are either in authorities which have chosen not to apply a premium or are in one of the classes which cannot be charged a premium. However, they continue to be liable for council tax at the standard rate. Two authorities, Gwynedd and Swansea, have set the premium at the maximum level of 100% on second homes from 1 April 2021.

Since their introduction on 1 April 2017, the premiums have enabled the relevant authorities to collect millions of pounds in additional council tax. Any additional funds raised through a higher rate of council tax on second homes and long-term empty properties can be used as the local authority sees fit. For example, they can be deployed to alleviate some of the impacts second homes might have on local communities. These include impacts on the availability of affordable housing and the provision of public services and other local facilities, including public transport. The Welsh Government has encouraged authorities to use the additional income to address issues affecting the supply of affordable housing. Local authorities are required to consult local people and homeowners before introducing premiums, allowing a minimum period of 12 months between deciding to introduce a premium and it first taking effect.

The Welsh Government has powers to increase the maximum level at which the premium can be set by introducing regulations. While there have been some calls to increase the current 100% maximum level, the case for doing so is less clear while the current maximum is not being widely used.

Dr Brooks' report included the following recommendation relating to this aspect of the local taxation system:

Recommendation 6: local council tax premium

County councils that consider second homes to be a serious social problem should use their taxation powers fully, raising the council tax premium on second homes to 100%.

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There have been suggestions that some second home owners have been able to escape paying local taxes on their property by having it transferred from the council tax list to the non-domestic rating list. The second part of this consultation looks in more detail at the circumstances in which certain properties can be transferred between the lists (transfers can take place in both directions).

Viewpoints

We are seeking the views of individuals and organisations on the discretionary powers which allow local authorities to levy a higher rate of council tax on second homes and long-term empty properties. We would welcome evidence about how local authorities have used the premiums to date and how they have used the extra revenue to address issues affecting local housing supply.

We would particularly welcome views on how else authorities could use the funds raised from the higher rate charged on second homes and long-term empty homes, and on the option to introduce regulations to increase the current maximum at which the premium can be set.

Self-catering accommodation for local tax purposes

Within the local tax system, properties used for the purpose of providing self-catering accommodation (eg holiday lets) are treated as businesses and are liable for non-domestic rates rather than council tax.

This section of the consultation seeks views and considers options to strengthen the criteria used to classify properties as self-catering accommodation which are liable for non-domestic rates. The objective of any potential changes would be to ensure properties that are genuine self-catering businesses remain on the non-domestic rating list while ensuring domestic dwellings which do not meet the self-catering criteria, are liable for council tax.

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The current position

We are consulting on potential changes to the local tax system, with the aim of supporting local authorities to manage the impact of second homes and self-catered accommodation on the communities in which they are located. This is to ensure that both domestic and non-domestic property owners make a fair and effective contribution to the communities in which they live or own property. We also recognise the important contribution which holiday lets and tourism make to the economy of Wales and the need to strike the right balance between the needs and interests of local communities, homeowners and businesses.

As part of this consultation, we are looking at the circumstances in which properties may be transferred between the council tax list and the non-domestic rating list, including the reasons for transfers or for changes in definition.

Legislative framework

The current regulations underpinning the classification of properties in the local taxation system are designed to set minimum thresholds for classifying self-catering accommodation, acknowledging that trading circumstances may differ from year to year. The regulations were subject to consultation prior to their introduction.

Sections 66(2BB) of the Local Government Finance Act 1988 (inserted by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010 and amended by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016) set out the criteria for a property to be defined as self-catering accommodation and classified as non-domestic for local taxation purposes.

The criteria are as follows.

- The property will be available for letting commercially as self-catering accommodation for short periods totalling 140 days or more in the following 12-month period.
- The ratepayer's interest in the property enables them to let it for such

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periods.

- In the 12 months prior to assessment, the property has been available for letting commercially as self-catering accommodation for short periods totalling 140 days or more.
- The short periods it has actually been commercially let for amounted to at least 70 days during that period.

Where the criteria are not met, the property is classed as domestic and is liable for council tax. The criteria have been in operation in Wales since 2010 and Wales currently has the most specific requirements in the UK for defining properties as self-catering accommodation. Based on these criteria, the latest figures from the VOA indicate that there were almost 9,500 self-catering holiday lets on the non-domestic rating list in April 2021. This figure includes purpose-built and purpose-converted holiday lets and specialist holiday accommodation, as well as more traditional holiday cottages. Again, the figures vary considerably across Wales, with the highest numbers seen in Gwynedd and Pembrokeshire.

The role of the Valuation Office Agency

The Valuation Office Agency (VOA) has a statutory function to compile and maintain the lists of domestic and non-domestic properties in Wales and England and is an independent executive agency of HM Revenue and Customs (HMRC). The VOA has statutory responsibility for determining whether a property is categorised as domestic or non-domestic.

For self-catering properties, the VOA assesses a range of evidence to determine whether the criteria set out in legislation have been met.

Any owner seeking to have their property classified as self-catering accommodation and moved from the council tax list to the non-domestic rating list must submit a legal **Form of Return** to the VOA and provide documentary evidence that the property meets the letting criteria. The VOA must review this evidence, alongside assessing the value of the property, before making any change to the local tax lists. The law provides for penalties and prosecution if the VOA finds applicants have submitted false information. The VOA validates list entries, carries out spot-checks and investigates concerns. This includes

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examining relevant evidence relating to the classification of property as self-catering accommodation.

Recent developments

We have recently agreed changes to the process for assuring the quality of the non-domestic rates list for self-catering properties in Wales. From 2021 to 2022 onwards, the VOA will issue returns to all self-catering properties every two years to check whether properties continue to meet the qualifying criteria set out in regulations.

The case for change

There have been suggestions that the criteria for classification as self-catering accommodation are too lenient and should be strengthened to make it more challenging for owners who wish to have their properties transferred from the council tax list and listed for non-domestic rates. There have also been views to the contrary from people operating self-catering businesses who believe that the criteria are already challenging enough.

The Scottish Government plans to introduce the same criteria operating in Wales from 1 April 2022. The UK Government has recently consulted on introducing the same criteria for England.

Within the UK tax system, HMRC applies special tax rules for rental income from properties that qualify as furnished holiday lettings (FHLs). The rules enable the owner to claim certain tax reliefs and allowances (eg capital gains tax relief and capital allowances for items such as furniture, equipment and fixtures). To be eligible, a property must be available for letting as an FHL for at least 210 days in the tax year and actually let on a commercial basis to the public for at least 105 days in the year.

Dr Brooks' report also included a recommendation relating to non-domestic rates and self-catering accommodation.

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Recommendation 7: short-term holiday accommodation and business (non-domestic) rates

The Welsh Government should consult on the possibility of making short-term holiday accommodation exempt from being eligible for small business rates relief.

Currently all occupied small business properties below a specified rateable value, including self-catering units, are eligible for Small Business Rates Relief (SBRR), subject to a limit of two properties per business per local authority. The scheme is kept under review and any proposals to change it would need to be considered as part of this wider review process and subject to separate consultation. This consultation considers the criteria for defining properties as non-domestic self-catering accommodation. If, for example, the thresholds for classification as self-catering accommodation were increased as a result of this consultation, fewer properties would be classed as self-catering units and eligible for rates relief. Properties which met the higher thresholds would, by definition, be operating as businesses. There would need to be a clear case for excluding any particular category of business from eligibility for the scheme. We would welcome further views and evidence to help inform future consideration of eligibility for SBRR.

Viewpoints

The Welsh Government acknowledges the complex issues and different challenges faced by stakeholders and this consultation exercise seeks views and evidence on the current position and the potential impact of changes. All responses will be taken into account in considering further developments.

We invite and welcome all views on the current criteria for a property to be defined as self-catering accommodation for local tax purposes and the impact of potential changes.

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Next steps

Once the consultation has closed, the Welsh Government will analyse all the responses and publish a summary on our web-site. The responses will inform the development of policy in relation to the local taxes, second homes and self-catering accommodation (holiday lets).

Consultation questions

Question 1

How effective has the use of premiums been in addressing housing issues?

Question 2

How could local authorities' best use the premiums to help bring empty or underused properties back into use to improve housing supply and the sustainability of local communities?

Question 3

Do you have views on how funds raised from the premium should be used? For example, should local authorities be required to be more transparent about how funds raised from the premium have been spent?

Question 4

Is the current maximum premium of 100% appropriate? If not, what would you consider to be appropriate and fair?

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Question 5

If a higher maximum premium were proposed, should this be introduced incrementally?

Question 6

What do you see as the impacts, both positive and negative, of self-catering accommodation?

Question 7

What are your views on the current criteria and thresholds for defining property as self-catering accommodation and liable for non-domestic rates?

Question 8

Do you think the self-catering accommodation thresholds should be changed and, if so, why?

Question 9

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

Question 10

What are your views on the eligibility of self-catering accommodation for Small Business Rates Relief?

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Question 11

Are there other ways in which you think the local tax system could be used to support the sustainability of our communities?

Question 12

We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 13

Please also explain how you believe the proposed policy approach could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 14

We have asked a number of specific questions. If you have any related points which we have not specifically addressed, please use this space to record them.

How to respond

Submit your comments by **17 November 2021**, in any of the following ways:

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- complete our [online form](#)
- download, complete our [response form](#) and email LGFR.Consultations@gov.wales
- download, complete our [response form](#) and post to:

Local Government Finance Reform Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please [tell us](#).

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

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E-mail: data.protectionofficer@gov.wales

Information Commissioner's Office

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

Telephone: 01625 545 745 or 0303 123 1113

Website: ico.org.uk

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh

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Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Further information and related documents

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