PUBLICATION, DOCUMENT

Consultation on the valuation of houses in multiple occupation (HMOs) for Council Tax

We are seeking your views on draft Regulations about Council Tax for HMOs in Wales.

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Introduction

HMOs are an important part of the housing market, suiting people from all walks of life at different times, and often providing more affordable accommodation for people whose housing options are limited.

This consultation seeks views on draft Regulations:

- to ensure HMOs are banded as a single property with 1 Council Tax band
- to ensure the HMO owner remains liable for Council Tax

To achieve this, we are proposing to disapply the Council Tax (Chargeable Dwellings) Order 1992 (“the 1992 Order”) and the Council Tax (Liability for Owners) Regulations 1992 (“the 1992 Regulations”) in relation to Wales and make the Council Tax (Chargeable dwellings) (Wales) Regulations 2025 and the Council Tax (Liability for Owners) (Wales) Regulations 2025.

The new Regulations would replicate the existing provisions from the 1992 Order and 1992 Regulations that apply to Wales and include new provisions so that HMO properties are aggregated and treated as a single dwelling for Council Tax purposes. The Regulations would also expand the prescribed class of HMO for which the owner is responsible for paying Council Tax. Regulation 4 of the Council Tax (Liability for Owners) (Wales) Regulations 2025 transfers the liability to pay Council Tax to the person who has the most inferior interest (whether freehold or leasehold) in the whole of the dwelling or, where there is no such person, the freeholder of the whole or any part of the dwelling, rather than to the owner. For the purposes of this document, the term ‘owner’ will be used but in relation to HMOs, this will mean the person outlined above.

This consultation applies to Wales only.

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Background

What are HMOs?

Typically, HMO properties are rented out by at least 3 people who are not from 1 ‘household’ but share facilities like the bathroom, toilet and kitchen with other occupants (a tenant or a licensee). This could include:

- a house split into separate flats, apartments or bedsits
- a house or flat-share, where people have separate occupation contracts (a tenancy agreement or licence)
- a hostel
- a bed-and-breakfast hotel that is used not just for holidays
- students living in shared accommodation (although many halls of residence and other types of student accommodation that are owned by educational establishments are not classed as HMOs)

A ‘household’ could be a single person, or members of the same family living together. This includes people who are married or living together in a relationship. It also includes close relatives and foster children living with foster parents.

HMOs provide an important source of accommodation for many people across Wales from all walks of life. This type of accommodation is lived in by families, young professionals, students and can support some of the most vulnerable and disadvantaged groups, such as those on low incomes. In recent years, high-quality HMOs are also being used to provide affordable accommodation.

It is estimated that in 2022 to 2023 there were 18,252 **HMOs in Wales**, with the greatest share seen in large urban areas with high volumes of privately rented dwellings and student populations, such as Cardiff and Swansea.

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Council Tax banding of HMOs

For the purposes of Council Tax, HMOs fall into the category of a ‘multiple property’ if each person (or household) who lives in it is a tenant or licensee able to occupy only part of the dwelling.

The Valuation Office Agency (VOA) is responsible for ensuring each domestic property is correctly assessed and placed into the appropriate Council Tax band. The VOA is an executive agency of HM Treasury and is independent of the Welsh Government. In carrying out its valuation work, the VOA considers what is a “dwelling” liable for Council Tax. The definition of a dwelling for Council Tax purposes is set out in section 3 of the Local Government Finance Act 1992.

The VOA also has the discretion to treat 2 or more separate dwellings as a single dwelling, if it:

1. is a single self-contained unit, or such a unit together with or containing premises constructed or adapted for non-domestic purposes
2. is occupied as more than 1 unit of separate living accommodation

The decision to treat several domestic properties as 1 chargeable unit or dwelling is known as ‘aggregation’.

Where a property has been aggregated, the property will receive 1 Council Tax bill and the owner (not the occupants) is liable for the payment of Council Tax to the local council. However, the owner would normally pass on such costs (apportioned as necessary) to the occupants through occupation contracts. Certain HMOs, such as those occupied solely by students, are exempt from Council Tax. There is no loss of Council Tax revenue to the council for properties that are legally exempt from Council Tax. Exempt properties are excluded from the Council Tax base calculation made by councils, which determines how many properties will be included in raising the required amount

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of Council Tax to spend on local services.

Where the VOA has decided not to aggregate HMOs each room will be a separate, chargeable dwelling. This will generate separate Council Tax bills for each resident in each relevant part of the dwelling. However, if for example the resident is on a low income, they may be eligible for a reduction to their individual bill through the Council Tax Reduction Scheme. Furthermore if, for example, a resident is a student, or a care-leaver they will be exempt from Council Tax.

Decisions about the valuation of properties rests with the VOA, reflecting the relevant legislation and case law. While the decision to aggregate HMO properties, or not, is a matter for the VOA, this has become more complex over time, as the nature of properties has changed. The quality of HMOs has improved, with more and better amenities following the implementation of the Housing Act 2004. As a result, less individual rooms in an HMO are being aggregated together.

The VOA must exercise its discretion reasonably and consider all the circumstances of a case, including the extent to which the parts of a property that are separately occupied have been structurally altered. The VOA's discretion to decide whether a collection of units or a dwelling should be aggregated cannot be challenged.

The valuation of properties in multiple occupation has become particularly problematic in recent years, with adverse impacts on both owners and occupiers of such dwellings. Concerns have been raised that where a property has not been aggregated, occupants are now becoming liable for bills significantly more than any sums they may have been charged had the liability remained with the landlord under a single assessment. Landlords have also expressed concerns that where the rooms in the property have not been aggregated, this has increased the Council Tax bills for some properties. This could result in increased costs for occupants which can be particularly unfair for those on lower

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incomes. These higher Council Tax bills place landlords at a competitive disadvantage in securing new occupants and may deter them from using void periods to improve the property.

The licensing of HMOs

The Housing Act 2004 (the ‘2004 Act’) introduced licensing for HMOs providing a detailed definition of HMOs and setting out standards of management for this type of property. There are two types of HMO licensing:

- mandatory licensing
- additional licensing

Licensing is mandatory for all HMOs which have three or more storeys and are occupied by five or more persons forming two or more households. Additional licensing is when a council can impose a licence on types of HMOs for which licensing is not mandatory.

For licensing, HMOs are defined in sections 254 to 259 of the 2004 Act and provides that a building, or part of a building, is a house of multiple occupation if it satisfies:

- the standard test
- the self-contained flat test
- the converted building test
- if the HMO declaration is in force under section 255 of the 2004 Act
- it is a converted block of flats to which section 257 applies

Further information about the definition of HMOs as set out in the Housing Act 2004 can be found at annex a.

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HMOs occupied by residents who are exempt from Council Tax

Under Class N of the Council Tax (Exempt Dwellings) Order 1992 ('the Exempt Dwellings Order'), a dwelling that is wholly occupied only by students is exempt from Council Tax. Owners must request students supply evidence of their study status. The student's educational establishment provides a certificate upon the student's request, confirming their full-time student status and eligibility for the exemption. With this proof, the owner can then apply to the council for the exemption from Council Tax. However, the owner will be liable for the payment of the Council Tax for periods where the property is unoccupied, for example during non-term time weeks during the summer. Similarly, under Class U or Class X of the 1992 Order, a dwelling that is wholly occupied only by severely mentally impaired people or care leavers will also be exempt from Council Tax.

In the scenario where the property is also occupied by persons other than those exempt under the Exempt Dwellings Order, then the exemption cannot apply, and the owner will be liable to pay the whole Council Tax bill. The Welsh Government is not proposing changes to the exemptions in this consultation, but this paragraph has been included to provide the clarity about administration that some councils have been seeking.

Other types of properties treated as a single dwelling

Section 3(2) of the Local Government Finance Act 1992 defines what is meant by "dwelling" and section 3(5)(b) provides that Welsh Ministers may prescribe that any dwelling which would be two or more dwellings would be treated as 1 dwelling.

Under the existing legislation, care homes and refuges in Wales are treated as 1 dwelling. This means that where the care home or refuge consists of several

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self-contained units it is treated as 1 dwelling; it is subject to 1 assessment for Council Tax purposes and the owner is liable to pay the Council Tax not the individual residents.

The Welsh Government would be interested to hear from owners, occupiers or councils of any other types of properties that it may be appropriate or beneficial to treat as a single dwelling.

Proposed changes

The demand for affordable, flexible housing, such as those offered by HMOs, has been growing consistently in some parts of Wales over the past few years. HMOs offer accommodation that is typically more affordable than other private rental options and suit people from all walks of life, including vulnerable tenants.

The Welsh Government is aware of concerns that some HMO properties across Wales are not aggregated for Council Tax purposes, and the adverse impact this can create for both owners and occupiers. To provide greater certainty and consistency in the way that HMOs are treated for Council Tax in Wales, the Welsh Government proposes introducing changes to ensure that HMO properties receive 1 Council Tax bill.

While decisions about the valuation of properties continues to rest with the VOA, reflecting the relevant legislation and case law, the accumulation of different decisions over the years has added complexity, causing some confusion and inconsistency in the tax base. There is also a disparity between the treatment of HMOs in Wales compared to in England due to recent changes made by the UK Government to ensure HMO properties in England are aggregated and treated as a single dwelling with 1 Council Tax bill.

The Welsh Government considers that greater consistency is needed and

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considers charging Council Tax on a whole property rather than an individual room is the fairest and simplest way to treat HMOs for Council Tax. We also propose that liability for Council Tax would always remain with the owner, so occupants are not subject to individual Council Tax bills. This will also provide parity of the treatment for HMO properties in Wales with England.

The Welsh Government proposes adopting the same definition of HMOs used by councils in Wales for the purpose of licensing of HMOs. We believe defining HMOs in this way would provide a definition for Wales that is consistent across legislation for Council Tax, planning and housing.

There are circumstances however where properties currently defined as HMOs for the purposes of licensing, would not be appropriate to aggregate for the purposes of Council Tax, such as converted blocks of flats defined in section 257 of the 2004 Act.

Conversely there are properties not defined as HMOs for licensing purposes where it would be appropriate to aggregate for the purposes of Council Tax. These are currently set out in Schedule 14 to the 2004 Act and include buildings:

- controlled or managed by a local council, private registered provider of social housing (including profit-making registered providers), cooperative society (that meets certain conditions) or other specified public sector bodies
- occupied by students
- occupied by religious communities
- occupied by owners

The proposed changes would ensure that HMOs will be valued as a single property where appropriate, creating consistency across the sector, and providing certainty for councils, owners and households. This would ease administrative burdens on councils and ensure the Council Tax liability will remain with the owner in the usual way, rather than councils billing individual occupants who may only occupy the property for a short period of time.

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The proposed changes will apply to both licensed and unlicensed HMOs and will not be applied retrospectively. Where HMOs have previously been assessed and not aggregated by the VOA before the proposed changes come into force, the landlord will be able to make a proposal to the VOA to alter the valuation list. Following aggregation, the alteration of the list and the liability of the HMO owner would have effect from the day on which the proposal was made.

The proposed changes will ensure HMOs have 1 Council Tax band and Council Tax bill, and the owner/landlord is responsible for the paying the bill. This will simplify administration for landlords and councils in Wales.

The Council Tax (Chargeable Dwellings) (Wales) Regulations 2025 and the Council Tax (Liability for Owners) (Wales) Regulations 2025

The Welsh Government is proposing to disapply the Council Tax (Chargeable Dwellings) Order 1992 ('the 1992 Order') in relation to Wales and make the Council Tax (Chargeable Dwellings) (Wales) Regulations 2025. The new Regulations will replicate the existing provisions from the 1992 Order that apply to Wales and include provisions so that HMO properties are aggregated and treated as a single dwelling for Council Tax purposes.

We also propose to disapply the Council Tax (Liability for Owners) Regulations 1992 ('the 1992 Regulations) in relation to Wales and make the Council Tax (Liability for Owners) (Wales) Regulations 2025. The new Regulations will replicate the existing provisions from the 1992 Regulations that apply to Wales and expand the prescribed class of HMO for which the owner is responsible for paying Council Tax.

The draft Regulations provide that HMOs should be valued as a single property for the purposes of Council Tax. This will ensure that HMOs have 1 Council Tax band and receive only 1 Council Tax bill.

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The draft Regulations adopt the same definition of HMOs as those set out in section 254 of the Housing Act 2004 (“2004 Act”). The definition of HMOs in the draft instrument also excludes converted blocks of flats defined in section 257 of the 2004 Act. These flats will continue to each have their own Council Tax band.

The draft Regulations include properties not defined as HMOs for licensing purposes under section 254 of the 2004 Act but are considered appropriate to aggregate for the purposes of Council Tax. These are currently set out in Schedule 14 to the 2004 Act.

The draft Regulations amend the definition of HMOs in the 1992 Regulations so that Council Tax liability for HMOs continues to rest with the HMO owner rather than the occupier.

The draft Regulations can be found at annex b and annex c. We are proposing to take this opportunity to make new Wales-only legislation to aid accessibility, therefore we are proposing to disapply the 1992 Order and 1992 Regulations and remake the legislation in relation to Wales. However, to be clear, the only proposed policy changes to the existing legislation relate to HMOs as set out in this consultation.

Consultation questions

Question 1

Please specify which group you identify with.

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Question 2

Do you agree with the Welsh Government's policy to provide a consistent approach for the treatment of HMOs for Council Tax purposes, ensuring HMOs are aggregated and treated as a single dwelling and have 1 Council Tax bill?

Question 3

Do you agree with the proposed definition of HMOs for Council Tax purposes as set out in the draft Regulations?

Question 4

Are there other types of properties not included in the definition for HMOs in the draft Regulations which should be aggregated and treated as a single dwelling for the purposes of Council Tax valuation and banding?

Question 5

Are there any other types of properties not currently defined that could be considered to be treated as a single dwelling for the purposes of Council Tax valuation and banding?

Question 6

Do you have any other comments on the proposals?

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Question 7

The Welsh Government would like your views on the possible effects that the proposals for HMOs could have on the Welsh language, specifically on:

1. opportunities for people to use Welsh
2. on treating the Welsh language no less favourably than English

Question 8

Please also explain how you think the proposals for HMOs could be developed so as to have:

1. 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
2. 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

How to respond

Submit your comments by 26 November 2024, in any of the following ways:

- complete our **online form**
- download, complete our **response form** and email **CTandNDR.Consultations@gov.wales**
- download, complete our **response form** and post to:

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Council Tax Policy
Welsh Government
Cardiff
CF10 3NQ

Next steps

The consultation is open for a 12-week period. Your consultation responses will help inform the final versions of the regulations. Our intention is to analyse the responses and consider whether any changes may be required before laying the final draft regulations.

Responses to consultations are likely to be made public on the internet or in a report. If you would prefer, your response can remain anonymous.

Your rights

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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**.

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E-mail: **data.protectionofficer@gov.wales**

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

Telephone: 01625 545 745 or 0303 123 1113

Website: **ico.org.uk**

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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 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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Annex a

Definition of Houses in Multiple Occupation as set out in sections 254 to 259 of the Housing Act 2004

A building, or part of a building, is an HMO if it satisfies:

- the standard test
- the self-contained flat test
- the converted building test
- if an HMO declaration is in force under section 255 of the 2004 Act
- it is a converted block of flats to which section 257 applies

The standard test

This test covers most HMOs, e.g., bedsitting room accommodation, shared houses and hostels. To pass the test, the building or part of the building must consist of 1 or more units of living accommodation that is not a self-contained flat or flats.

The living accommodation must be occupied by more than 1 household who share 1 or more of the basic amenities (toilet, washing facilities and cooking facilities), or the accommodation is lacking in 1 or more of these amenities.

The occupiers must occupy the living accommodation as their only or main residence and their occupation must constitute the only use of that accommodation. At least 1 of the occupiers must pay rent or provide some other consideration for the occupation.

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The self-contained flat test

The difference between this test and the standard test is that the premises for consideration must be a self-contained flat, rather than a building or part of a building.

Converted building test

This test relates to buildings (or parts of buildings) which have been partly converted into self-contained flats, which also contain living accommodation that is not within a self-contained flat.

A “converted building” means a building, or part of a building, consisting of living accommodation in which 1 or more units of such accommodation have been created since the building or part was constructed.

The definition applies to any premises which have been converted or adapted to include residential accommodation.

For a building to satisfy this test it must:

- be a converted building
- contain 1 or more units of living accommodation which are not self-contained flats
- have living accommodation occupied by [2 or more] persons who do not form a single household
- they must occupy the accommodation as their only or main residence
- their occupation must be the sole use of the accommodation
- rents or other consideration must be payable by at least 1 of the occupiers

The difference with the standard test is that there is no requirement for occupiers

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to share a basic amenity or that there is an amenity lacking.

HMO declaration (section 255)

Where a building, or part of a building, is partly occupied by persons as their only or main residence but is also partly occupied otherwise than as a residence, the council may declare the building as a house of multiple occupation. The council has to be satisfied that the occupation by persons as their only or main residence is a significant use of the building, or part of the building.

Converted blocks of flats (section 257 HMOs)

Where a converted building solely consists of self-contained flats, it is only an HMO if, when converted, it failed to comply with 'appropriate building standards' and less than two-thirds of the self-contained flats are owner-occupied. The second element of this test means that a converted block can fulfil the definition of an HMO at certain times and not at others.

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