

Consultation on the Business Rates Treatment of Self-Catering Accommodation

15 January 2019



1. The LGA is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by making the case for greater devolution, helping councils tackle their challenges and assisting them to deliver better value for money services.
2. This response has been agreed by the LGA Chairman, Group Leaders and lead members of the LGA Resources Board.

General remarks

3. We welcome the opportunity to respond to the consultation on the Business Rates Treatment of Self-Catering Accommodation. The LGA has long been concerned about the abuse of rules governing entitlement to business rates reliefs, of which this is one, and has called for action to be taken to reform the law. Therefore, we welcome the proposal to try to eliminate this form of avoidance.
4. However, we believe the Government should go further and tackle other forms of business rates avoidance in line with the Secretary of State's offer to us in January 2017. This commitment was [repeated by the then Parliamentary Under-Secretary of State for Communities and Local Government the following month](#).
5. In February 2015, we submitted evidence in response to a Government discussion paper on business rates avoidance based on a survey that we carried out in conjunction with the government. We then estimated business rates avoidance at £230 million per annum. Much of this relates to abuse of the rules governing empty property and charitable relief. The LGA has also heard of examples of where small business rates relief is claimed through the artificial splitting of larger hereditaments into units which have a rateable value which comes below the threshold for 100 per cent small business rates relief.
6. We note that the Welsh Government has [announced](#) that it will introduce measures to tackle wider forms of business rates avoidance from April 2021, including:
 - A new legal obligation on ratepayers to notify their local authority of a change in circumstances which would affect their rates bills;

Submission

- A new legal power for local authorities to request information from ratepayers and third parties to aid authorities in discharging the billing and collection function;
 - A new legal power for local authorities to enter and inspect non-domestic properties (hereditaments) to verify information relevant to the billing function;
 - Changes to the arrangements for empty property relief including lengthening the period of temporary occupation, which leads to repeated cycles of relief, from 42 days to six months and removing zero-rating on empty properties that when next in use it appears they may be used for a charitable purpose. They will provide local authorities with local discretion to grant zero rating in genuine cases where a charity needs to own or lease an empty building and not make use of it;
 - Working with local authorities to publish a list of ratepayers in receipt of rates relief, subject to a list complying with General Data Protection Regulation;
 - Working with local authorities to develop a share-gain approach – this will enable those local authorities which make efforts to maximise compliance to keep a percentage of the additional revenue collected, rather than it being paid into the central pool for redistribution.
7. We look forward to early government proposals on similar measures in England to come into effect alongside the proposals in Wales.

Answers to questions in the consultation

Question 1 – Do you have any views on the current criteria?

8. The LGA agrees that genuine small businesses, including holiday lets, should be entitled to benefit from small business rates relief. However we agree that the current criteria are open to abuse. As recognised in the consultation, there may be cases where owners of properties which are not genuine businesses are exploiting the rules relating to small business rate relief, reducing their tax liability by declaring that a property is available for let, but making little or no realistic effort to actually let it. This could be by restricting the periods during which bookings can be accepted, asking for unrealistic rents or not actively marketing the property. This concern that has been expressed by councils and in Parliament.

Question 2 – Do you have any views on the possible criteria set out above?

9. The LGA considers that the criteria set out in the consultation; which would add an availability condition as well as a letting condition, offer a way forward.

Question 3 – Do you have any views on how the criteria set out above could be evidenced?

10. We understand that the proposal is for the Valuation Office Agency (VOA) to play a leading role in evidencing that a holiday let is a business hereditament. The VOA has a standard procedure in Wales which could potentially be followed in England. However, it would seem sensible for the Government to first assess how the scheme is working in Wales and ensure that any lessons are incorporated into the scheme for England so that any problems are not repeated.
11. Under the proposals in the consultation, it would be for the VOA to determine the evidence it needs in order to be satisfied that a property is a business rather than domestic hereditament. However, we believe the information should include evidence that a property has been offered for letting, for example through, newspapers, magazines and appropriate websites, and secondly through evidence of actual letting; this can be in the form of a letting agreement or receipts for rent covering up to 70 days in the previous year. It should also include an income and expenditure return for the relevant period, or, if appropriate, audited accounts.
12. We agree that the change should take place 12 months after the legislation comes into force, in order to give the ratepayer time to put together evidence of letting and availability. During that period the VOA should contact relevant ratepayers and inform them that, to continue to be eligible for non-domestic rates after a set date, they will have to produce evidence of letting and availability. In the absence of such evidence, the property will be entered into the council tax lists and be liable for council tax from that date, with a possibility of reverting to a non-domestic rating assessment, and the possibility of backdating if it is possible to satisfy the criteria subsequently.
13. The VOA should inform the Billing Authority through the normal channels, giving plenty of time for it to effect the change. The default position should be that all properties which cannot meet the strengthened criteria should become liable for council tax from the date the change comes into force. For that it will be necessary for the VOA to have carried out council tax banding exercises on these properties.

Question 4 – Do you have any alternative suggestions that would similarly strengthen the criteria?

14. We have not heard any alternative suggestions but would refer MHCLG to responses from individual authorities.

Question 5 – Do you have any views on the option of backdating business rate bills and reimbursing council tax payments?

15. We can see the logic of the approach suggested given the fact that the two new suggested criteria are backwards looking so could not be demonstrated in advance. Account should be taken of the different way

services are delivered to households and businesses; for example in respect of waste collection which is free for households paying council tax and can incur a charge for businesses. In such cases councils should be able to backdate commercial waste charges in the same way as business rates bills are backdated.

16. The VOA should keep in place alternative council tax and business rates valuations for relevant properties so that it should be administratively easy to effect the change and plenty of time should be given for the Billing Authority to be informed in order to be able to carry out the relevant billing.

Question 6 - Are there any issues regarding the administration and enforcement of the approach outlined in paragraphs 8 to 17?

17. As stated in the answer to question 3 above, it should be up to the VOA to ascertain whether or not the criteria are met and this process should be set up on the basis of lessons learned from how the system works in Wales. The VOA will need to be properly resourced to fulfil this function. It is also important that any costs that fall on local government are fully funded, and any income lost compensated for. We expect a full new burdens assessment to be carried out which should identify costs and loss of income.

Question 7- Do you have any other comments on the options set out above to strengthen the criteria for holiday lets to become liable for business rates rather than council tax?

18. We would reiterate the comments made above on the importance of introducing wider measures to tackle other forms of business rates avoidance.