

Welsh Government consultation on a Statutory licensing scheme for all visitor accommodation providers in Wales
Response from Propertymark
February 2023

Background

1. Propertymark is the UK's leading professional body of property agents, with over 17,000 members. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry leading training programme and mandatory Continuing Professional Development.

Overview

2. The consultation seeks views on the Welsh Government's proposal to introduce a statutory licensing scheme for all visitor accommodation providers in Wales. Specifically, the consultation seeks feedback on the possible delivery options for the scheme.

Summary

3. Propertymark has already responded to the Welsh Government's consultations on legislation to control the number of second homes and holiday lets as well as a consultation on a proposed visitor's levy. We acknowledged the impact high levels of second homes and holiday lets has on overall housing stock in terms of housing options, the impact to the economy and the Welsh language. However, we also highlighted some of the unintended consequences of the legalisation. Visitor accommodation largely falls outside the remit of the work of Propertymark. However, we have responded to this consultation as some of our members who are property agents may manage short-term holiday lets which appears to be subject to the proposal.

Q1. Do you agree or disagree with establishing a licensing scheme as described for all visitor accommodation in Wales?

4. We agree to some extent that there should be a licensing scheme. However, this should be delivered by local authorities and at local authorities' discretion to decide if there is a requirement to do so. In his report for recommendations for controlling second homes and holiday lets, Dr Simon Brookes makes the case for a mandatory licensing scheme for holiday lets.¹ While holiday lets and second homes take up too many housing options in some parts of Wales and exclude some people from viable housing options, in other parts of Wales the ratio between holiday lets and second homes to total housing stock is negligible. If one of the chief aims of legislation is to control the number of holiday lets to maximise housing options, then surely this should be restricted to areas where they are a problem. Furthermore, if

¹ [WG42058 \(gov.wales\)](https://gov.wales/wg42058)

another reason for the licensing scheme is to improve health and safety, then local authorities perform the function of checking health and safety in holiday parks, hotels, and other visitor destinations. If the Welsh Government do decide to roll the scheme out nationally, then perhaps this should be done incrementally with a pilot study using some local authorities to build up from scale. This would allow the Welsh Government to test many of the systems that are contained within this consultation without adopting the scheme nationally.

Q2. If you disagree with the proposal to establish a licensing scheme, do you agree with the creation of a registration scheme for all visitor accommodation in Wales?

5. We agree in principle. Like our response to a licensing scheme, we believe that a registration scheme should be delivered at local authority level and at their discretion as to the appropriateness of implementing a scheme. We do not support a full national roll out as there are many parts of Wales where visitor accommodation is not in abundance or a concern. We feel it would be far better to focus resources where they are required at this stage.

Q3. Do you agree or disagree that introducing a statutory licensing scheme as described will ensure a level playing field for all accommodation providers operating in Wales?

6. We disagree and think that the introduction of a statutory licensing scheme could make the playing field even more uneven. We disagree for two reasons. Firstly, the cost of a statutory licensing would be less of an impact to large corporate accommodation providers compared to small businesses and those that have small-scale holiday lets including landlords. Perhaps one way around this would be to proportion the cost of the licence to the size of the accommodation rather than a flat fee. Secondly, in our response to the Welsh Government's consultation on draft council tax (exceptions to higher amounts) (Wales) (amendment) Regulations 2023² we raised concern on the impact the proposal could have on landlords operating in the Private Rented Sector (PRS) who may let their properties out on a short-term basis as holiday lets during void periods. This could avoid the landlord having to sell the property and further reducing housing options. We would like clarity for landlords who this would apply to, would they be required to apply for a statutory licence if they already held a Rent Smart Wales licence?

Q4. Do you agree or disagree that the Welsh Government needs a register of visitor accommodation providers in Wales to know who is operating in the industry?

7. We disagree that the Welsh Government needs a register of visitor accommodation providers in Wales. This could be performed by local authorities.

² [Call for more landlord support in Welsh tourism hotspots | Propertymark](#)

Q4a. Do you agree or disagree that local authorities need a register of visitor accommodation providers in Wales to know who is operating in the industry?

8. We agree that local authorities need a register of visitor accommodation providers in Wales. We think this for two reasons. Firstly, this would improve data on visitor accommodation in local authorities. Secondly, local authorities could communicate to the sector and thirdly it would be useful for enforcement for a proposed visitor's levy.

Q5. Do you agree or disagree that introducing a statutory licensing scheme will ensure an effective platform for communication between the Welsh Government and local authorities and providers of visitor accommodation in Wales?

9. We disagree. In principle a licensing scheme should improve communication between the Welsh Government, local authorities, and providers. However, in our experience of selective and additional licensing schemes for the PRS, this method of communication has seldom been utilised. There would also be Data Protection considerations if service providers would want communication from the Welsh Government and local authorities. Even where communication channels have been set up, such as with Rent Smart Wales, there effectiveness has yet to be evaluated.

Q6. Do you agree or disagree that introducing a statutory licensing scheme will ensure enhanced confidence in visitor accommodation and accommodation providers in Wales?

10. We cannot respond to this question as we are not aware of confidence levels for visitors staying in Welsh accommodation providers nor has any evidence been provided within the consultation. Presumably, if confidence levels were low, then visitors would not visit Wales which does not appear to be the case.

National or local Delivery/Administration

Q7. It is our view that a statutory scheme should be delivered on a hybrid basis, taking a national approach to core elements such as registering providers and processing applications, with enforcement to be undertaken by local authorities as required. Do you agree or disagree with this?

11. We disagree. We have already stated that the delivery should be at the local authority level and only if required.

Accommodation types in scoup

Q8. It is proposed that all visitor accommodation is considered within the scope of a statutory scheme. Do you agree or disagree with this?

12. For ease of regulation, we agree that all accommodation types should be considered.

Q9. Can you identify any visitor accommodation that should be exempt from a statutory scheme and what are the reasons for your answer (e.g. accommodation that is used solely for education purposes or vulnerable groups)?

13. We have already highlighted that a small number of landlords who operate in the Private Rented Sector (PRS) let their properties out as a short term let to fill voids. We believe landlords who do this should be exempt as they will already have a Rent Smart Wales licence. Any accommodation providers that are used to support local authorities discharge of homeless duties or act as a refuge for vulnerable people should also be exempt.

Q10. We are proposing that whoever is responsible for the letting of the accommodation for holiday purposes on caravan and/or camping sites (i.e. the park owner or individual owner) should be required to obtain a licence. Do you agree or disagree with this proposal?

14. In most cases this should function adequately. However, for the case of holiday lets, some property owners may discharge this duty to a property agent. We believe the agents or property agents should be responsible for getting a licence.

Operating period

Q11. We are proposing that a license is required even if the visitor accommodation is operating infrequently (including one night per year). Do you agree or disagree with this proposal?

15. We disagree. We think it would be very difficult to enforce checks for accommodation providers that are operating infrequently especially as you are proposing to only carry out checks for one in fifty license holders as per question fifteen.

Q12. Do you agree with the need for a limited licence for one-off or annual events?

16. We disagree with the need for a limited licence for one-off or annual events for the reasons outlined in our response to question eleven.

Q13. We are proposing that a provider of visitor accommodation should supply the above information / documentation and be required to provide evidence/confirmation that they comply with the requirements as detailed above. Do you agree or disagree with this proposal?

17. We agree that a provider of visitor accommodation should supply relevant information / documentation and be required to provide evidence/confirmation that they comply with the requirements.

Compliance and enforcement

Q14. We are proposing that inspections are carried out on a 1:50 ratio using a risk-based approach and additional inspections in response to customer complaints or other concerns brought to the attention of the licensing authority. Do you agree or disagree with this proposal?

18. We disagree. We believe that this is an acknowledgement that neither local authority nor the Welsh Government have the resources for enforcement which is further evidence why we believe this should only be adopted on a smaller scale where it is critical against housing options. Furthermore, we would also like clarity on how the Welsh Government would consider vexatious and spurious complaints against an accommodation provider. If an accommodation provider received complaints of these nature, would this invoke an inspection regardless of the validity in the complaint?

Q15. Do you agree with the principle that visitor accommodation providers that do not comply should be subject to enforcement measures?

19. We agree. We believe where visitor accommodation fails to comply, then the sanction should warrant the seriousness of the failure in compliance. This could include warning letters, fines and measures to stop trading. There should be an emphasis on education and warnings for minor and first-time offenders. However, the overall sanctions for serious and persistent breaches should be enough of a deterrent to stop illegal activity.

Q16. Do you agree that a fit and proper person test or similar should be included as part of the scheme requirements for all visitor accommodation providers?

20. We agree that a fit and proper person test or similar should be included as part of the scheme requirements for all visitor accommodation providers. We think this for three reasons. Firstly, private landlords and property agents who require a Rent Smart Wales licence to let Private Rented Sector property are required to undergo a fit and proper person test. This would bring the proposals in line with the Rent Smart Wales regime. Secondly, it would also give persons who use visitor accommodation, the confidence that proprietors have not committed any serious crimes or have victimised any groups or individuals subject with special characteristics subject to the Equalities Act 2010. Thirdly, we have identified that a small number of private landlords may already have a Rent Smart Wales licence and have visitor accommodation. This would especially be the case for PRS landlords who either have a portfolio including both rental properties and short-term lets and those landlords who let PRS properties on a short-term basis to avoid their properties from going void. We recommend that any licence should liaise with the Rent Smart Wales regime to avoid duplication and to allow a streamlined service.

Q17. We would like your views on whether all visitor accommodation providers should pay the same standard fee or should the fees be scaled (i.e. based on the type and size of the visitor accommodation)?

17a. Do you agree that all visitor accommodation providers should pay the same fee?

21. We disagree. We think that it would be unfair for owners of smaller holiday lets to pay the same fee as, for example, large hotel chains. Owners of holiday lets are already subject to significant increased costs. This includes the possibility of paying a Council Tax premium of up to 300 per cent and the possibility of having to pay business rates. We believe that by varying the fee according to the number of guests the accommodation serves, this would level the playing field between different sizes of accommodation providers.

17b. Do you agree that fees should be scaled based on the size of the visitor accommodation?

22. We disagree that fees should be scaled based on the size of the visitor accommodation. We assume by size of accommodation the consultation is referring to the size of a building. We believe this is arbitrary. However, as we stated in question 17a, we believe the licence should vary depending on the number of guests accommodation have. Those with the largest number of guests are likely to carry the greatest risks in terms of safety and standards. They would also be likely to require a more demanding inspection regime and have the greatest ability to pay a fee.

Q18. In Question 12, we asked about Limited licences for one-off or annual events. Do you agree or disagree that providers could apply for a oneoff licence at a reduced cost.

23. While one off or annual events are outside of the remit of the work of PropertyMark, we disagree and believe that one-off events that provide accommodation should be exempt from the licence. It is not clear from the evidence provided how the Welsh Government would enforce licensing on one off events, especially as they are proposing an enforcement regime on one in fifty properties.

Frequency of application

Q19. How often should a visitor accommodation provider be required to renew their licence?

24. We believe that visitor accommodation providers should be required to renew their licence every five years. We make the following two observations. Firstly, this would bring the proposal in line with the Rent Smart Wales regime. Secondly, we remain concerned about the limited resources to enforce licensing. If there was less burden on providers to renew licenses on a too frequent basis, then enforcement officers could concentrate their enforcement activity on more important matters such as standards and safety rather than ensuring providers are licensed.

Q20. If the frequency of renewal is less often than annual, do you agree or disagree that visitor accommodation providers be required to do an annual review i.e. upload up-to-date evidence/confirmation that they comply with their licence requirements?

25. We agree that if the frequency of renewal is less often than annual, do you agree or disagree that visitor accommodation providers be required to do an annual review This could be uploaded on an online portal system.

Transparency and access to information

Q21. We are proposing that as part of the licence application process, accommodation providers are asked to give their consent to the information they supply being shared between key authorities and partners for the purposes of communication, safety, compliance, enforcement and implementation of a visitor levy. Do you agree or disagree with this proposal?

26. We agree. The consultation highlights several responsible and relevant partners that accommodation providers can have their details shared with. Providing there is an opt out procedure then we do not foresee any problems in this regard.

Displaying licence numbers

Q22. Do you agree or disagree with the proposal that all visitor accommodation providers should be required to display their licence number on all advertising/marketing materials and at their visitor accommodation and be subject to penalties if they do not comply?

27. We disagree. We do not consider this should be mandatory but considered best practice and communicated that displaying this information could be in the interest of accommodation providers. However, for smaller accommodation providers, such as holiday homes, there might not be a reasonable place to display this on the accommodation. Smaller providers are far more likely to fall foul of failing to provide this information on their literature regardless of their level of compliance.

Q23. Do you agree or disagree with the proposal that all online travel agents (OTAs), travel trade organisations, other booking and social media channels, marketing platforms and self-catering agencies SHOULD BE REQUIRED to display the licence number of the visitor accommodation they are promoting on their listings and/or adverts and be subject to 25 sanctions if they deliberately or negligently advertise unlicensed visitor accommodation?

28. This question is outside the remit of the work of Propertymark.