PASC
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Cangen Cymru Wales Branch

WALES UPDATE 15 NOVEMBER 2022

Today's update includes:

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- Where to locate previous Wales only Newsletters
- General Update
- Welsh Government launches Consultation on Exemptions for 182-day threshold
- Launch of Consultation into Statutory Licensing
- Important Update from the Valuation Office in Wales and England
- New Business Rates Rateable Values imminent
- Possible exemption to 70 days in Denbighshire, Anglesey, Conwy, all should check
- Update on self-catering operators being 'fined' for not achieving 70/140 days in Covid Year
- Common questions about 182-day Threshold…
- Tourism Levy Meetings update
- Follow PASC UK on Twitter and Retweet
- Please support PASC UK efforts by joining up ☺

CHAIR ON LEAVE 7 – 22 NOVEMBER 2022 How coverage works

ADMIN SUPPORT

Admin emails, wanting to register for the PASC UK Buying Club, resetting passwords, trouble with accessing the Members only area, Membership queries etc, please contact Justin at admin@pascuk.co.uk

GENERAL SELF-CATERING RELATED QUESTIONS

Any general self-catering emergency queries to chair@pascuk.co.uk

This will auto automatically generate a response, saying that the Chair is away and explain how cover operates. The email will also automatically be forwarded to Beth Bailey, a Director of PASC UK and an experienced self-caterer who will then answer emergency questions. Beth can also be reached on 07496 409207 during working hours Mon to Fri. If engaged leave a clear telephone number, whether you are a PASC UK Member or not, and a short message. Members will be prioritised.

WALES SPECIFIC QUESTIONS

Specific Welsh issues relating specifically to issues caused by the Welsh Government interventions, 182 days, 'fines' for not achieving 70 days in lockdown, Tourism Levy etc, please send your questions

to Adrian Greason-Walker. Adrian is the Director of the Wales Tourism Alliance and a self-caterer himself, and has agreed to cover this area whilst Alistair is away. He can be reached at adriangwalker@gmail.com

We would ask that anything that can wait until Alistair gets back from leave, is left until then, so that Beth and Adrian can focus on dealing with emergencies.

WHERE TO LOCATE WALES ONLY NEWSLETTERS

The most recent Wales Newsletters are 6 October, 13th October and the 27th October. They can all be found here: https://www.pascuk.co.uk/wales-182-days-reports/

If you are not getting them directly and would like to, send an email to chair@pascuk.co.uk with Wales Newsletter in the Subject line.

GENERAL UPDATE

In brief, as we are still away on leave.

The Media company in Cardiff has launched the campaign against the 70 day 'fines' applied to businesses that missed the threshold during Covid, and this is generating some decent coverage, including the BBC.

https://www.bbc.com/news/uk-wales-63599043

We have also continued to press for exemptions to the 182-day Council Tax Premiums. The first looks like it has been granted for properties limited by planning consent to only operate as holiday lets. More on this below, but also some reasonably positive coverage on the BBC:

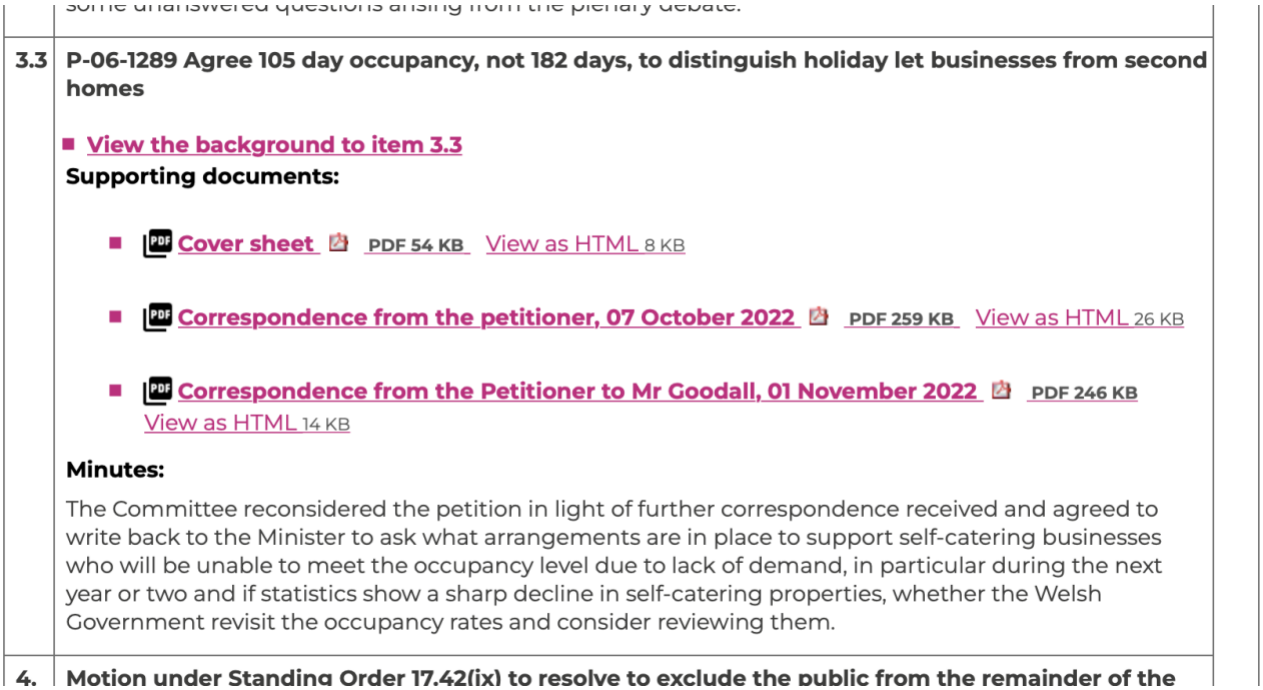
https://www.bbc.co.uk/news/uk-wales-63601958

Any media campaign around our sector is fraught with difficulties in Wales, due to the toxicity of the second homes issue. The Press release to the wider media was launched yesterday, and a copy can be found here: https://www.pascuk.co.uk/wales-182-days-reports/

Great care has been taken on the positioning of the above challenges to our sector, and we are having to work with a very small pool of case studies. The above media campaign, which included the help on getting the 70-day letters organised has cost £5000. This is why we keep appealing for those reading this newsletter that are not Members to join. For a single cottage it is just £70.

The timing is not great, as I will be on leave, but I am happy to leave the management of this campaign with Suzy Davies, Chair WTA and Adrian Greason-Walker, Director WTA. Suzy also speaks Welsh. They are fully up to date on everything, have been part of the planning and media briefings and are most importantly Welsh.

Suzy has also prepared on all our behalf a "Review of process: Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022. This is the 182-day rule. The letter asks for a review of the process that ended up with the rule entering law. We have now had a response and The Petitions Committee have agreed to look again at this Petition.



	some unanswered questions arising from the plenary debate.
3.3	**P-06-1289 Agree 105 day occupancy, not 182 days, to distinguish holiday let businesses from second homes** ■ View the background to item 3.3 **Supporting documents:** ■ Cover sheet PDF 54 KB View as HTML 8 KB ■ Correspondence from the petitioner, 07 October 2022 PDF 259 KB View as HTML 26 KB ■ Correspondence from the Petitioner to Mr Goodall, 01 November 2022 PDF 246 KB View as HTML 14 KB **Minutes:** The Committee reconsidered the petition in light of further correspondence received and agreed to write back to the Minister to ask what arrangements are in place to support self-catering businesses who will be unable to meet the occupancy level due to lack of demand, in particular during the next year or two and if statistics show a sharp decline in self-catering properties, whether the Welsh Government revisit the occupancy rates and consider reviewing them.
4.	**Motion under Standing Order 17.42(ix) to resolve to exclude the public from the remainder of the**

Full link here: https://business.senedd.wales/ieListDocuments.aspx?CId=744&MId=13041&Ver=4

More on that when we see what happens. We don't want to set hares running, and raise expectations that 182 will be quickly over-turned, it won't. The objective here is to raise scrutiny on all the measures that that the Welsh Government are introducing, and to also help apply pressure to get the exemptions agreed.

WELSH GOV LAUNCHES CONSULTATION ON EXEMPTIONS FOR 182 DAY THRESHOLD

The Welsh Government has launched a short consultation, it close on the 22nd December into exemptions from 182 days Council Tax Premiums.

The details can be found here:
https://gov.wales/draft-council-tax-exceptions-higher-amounts-wales-amendment-regulations-2023

And here:
https://gov.wales/council-tax-premiums-long-term-empty-and-second-homes-guidance-local-authorities

It has only just been released and we are concerned that it is too narrow and is also another 'technical consultation" rather like the supposed 182 day consultation.

Worth reading the two introductory passages…

Introduction

The purpose of the legislative change is to amend Class 6 of the exceptions to the council tax premiums for dwellings occupied periodically and add properties subject to

a planning condition that specifies a dwelling may only be used for short-term holiday lets or that restricts occupancy of the property from use as a person's sole or main residence. Such properties would be liable for council tax at the standard rate but could not be charged a premium.

This consultation applies to Wales only.

Background

Welsh Ministers have power under section 12(B)(5) of the Local Government Finance Act 1992 to prescribe dwellings which will be exempt from a council tax premium by reference to such factors as the Welsh Ministers think fit and may, among other factors, be prescribed by reference to:

- the physical characteristics of, or other matters relating to, dwellings
- the circumstances of, or other matters relating to, any person who is liable for the amount of council tax concerned

This power enables the Welsh Ministers to ensure that the premium does not apply in circumstances where it would be unreasonable or incompatible with the policy aims. These circumstances are prescribed in the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 ('the 2015 Regulations') and provide for classes of dwelling in relation to which a billing authority may not apply a premium to the standard rate of council tax.

An exception already exists for properties for which occupation is restricted by a planning condition (the seasonal occupancy condition) which prevents occupancy for a continuous period of at least 28 days in any one year. This relates to property where the character of its construction or design means it is not suitable for continuous occupation, especially during the winter months. Also, seasonal conditions may be applied to protect local features, for example where the site is near a fragile habitat which requires protection at particular times of year.

Much modern self-catering accommodation is capable of being occupied all year round. However where such accommodation is located in areas where the provision of permanent housing would be contrary to national and/or local policies, a local planning authority can impose a condition specifying its use as holiday accommodation only or restrict the occupancy of that property from use as a person's sole or main residence. Examples include conversions of redundant buildings into holiday accommodation where conversion into residential dwellings would not be permitted, for example to reduce pressure on other housing in rural areas or to reduce pressure on local services.

There is currently no exception from the council tax premium for property with a planning condition specifying its use as holiday accommodation or restricting the occupancy of that property as a person's sole or main residence.

We will comment much more fully next week when we have had time to consult with partners on this. By all means send in your thoughts and comments to chair@pascuk.co.uk so that they can be

taken into consideration when drafting firstly our comments, and then the Guidance on how to respond to the Consultation.

LAUNCH OF CONSULTATION INTO STATUTORY LICENSING

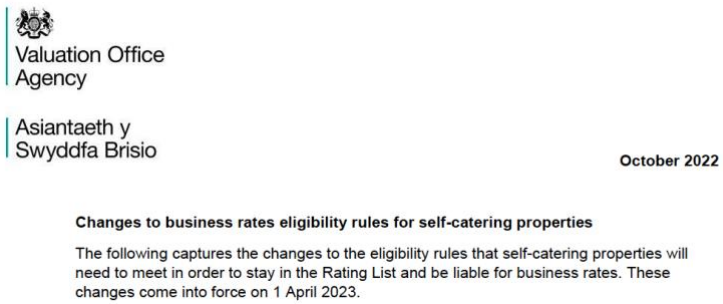
The Welsh government are about to launch a Consultation into Statutory Licensing for Self-catering in Wales. The plan had been to launch today, this has just gone up on the Wales Gov Website…

https://gov.wales/oral-statement-statutory-licensing-scheme-all-visitor-accommodation-wales

As usual, they talk of consulting with the sector… well yes they did… but that was for Statutory registration, NOT Licensing.

Again too early for proper comment on the launch of yet another consultation assaulting our sector. We will work with colleagues on this and once again give you feedback and start to prepare our responses to the Consultation itself.

IMPORTANT UPDATE FROM THE VALUATION OFFICE IN WALES AND ENGLAND



Valuation Office Agency

Asiantaeth y Swyddfa Brisio

October 2022

Changes to business rates eligibility rules for self-catering properties

The following captures the changes to the eligibility rules that self-catering properties will need to meet in order to stay in the Rating List and be liable for business rates. These changes come into force on 1 April 2023.

We received a paper from the Valuation Office yesterday, highlighting the changes to the way that Self-catering assessments for self-catering will be carried out, for both England and Wales.

What is clear is that both the main changes are retrospective, so the count for days in both England and Wales has already started from April 2022.

This means that in order to stay on Business Rates for the period April 2022 to March 2023 the new thresholds are already in place and owners in both England and Wales must meet the new thresholds.

Here is the section from the paper that says this, our red bit:

> **"What's changing?**
>
> Both the Welsh and UK Government (in relation to England) have enacted legislation which changes the eligibility criteria for whether a property can be assessed as a self-catering property and then valued for Business Rates rather than Council Tax.
> Although the new rules come into force on 1 April 2023, for assessment purposes VOA will look at letting information from the previous year. Owners of self-catering properties need to meet the new criteria during 2022-23, to be rated for Business Rates rather than Council Tax".

The document goes on to detail the new thresholds and once again, a key term here is commercial rates:

> There are **different criteria for Wales and England**, as follows:
>
> In **England**, the property must be (all of the following):
>
> - available for letting commercially (with a view to making a profit) for short periods. These short periods must total **140 days** or more in the previous, and in the current year.
>
> - actually let commercially for **70 days** or more in the previous 12 months.
>
> If the property is in **Wales** it must be (all of the following):
>
> - available to let commercially for short periods that total **252 days** or more in the previous and current year
>
> - actually let commercially for **182 days** or more in the previous 12 months.

All of those that read this Newsletter and are on Business Rates will be receiving the letter informing you of these changes.

When will they start asking for this information? is a common question, and this is included in this section, again we have highlighted key points.

> **"When we will ask for this information**
>
> We carry out a rolling programme of assessment on properties. This means we will ask customers to give us information at different times during the 2023/24 operating year. But we will be using a universal date, from which we will assess whether the new eligibility rules have been met, of 01 April 2023.
>
> After 1 April 2023, we will contact owners in England by writing to their billing address to confirm their eligibility.
>
> In Wales, we were checking compliance against previous criteria, under this rolling programme, when new eligibility rules were announced. We have already issued a form of return to owners of around half the self-catering properties in the rating list (5,500) to be reviewed against the current criteria. Next year we will issue to the remaining property owners and review against the new criteria".

You can review the document in full at https://www.pascuk.co.uk/reports/

Comment.

Apart from the obvious and stark disparity in the legislation, both are materially wrong in trying to achieve stated objectives, 70 in England is too low and 182 is way is ludicrously high, this is final confirmation that the measurements will be from last April, not next.

All owners need to check the booking calendars, there is still time to try and achieve these thresholds. This is much harder, especially in the less hot-spot areas of Wales which is why we will continue to battle for exemptions for business so that at least they do not have to pay the premium Council Tax.

NEW BUSINESS RATE RATEABLE VALUES IMMINENT

Sometime between now and Christmas all of the readers of this newsletter who are on Business Rates will also receive a form from the VOA detailing your new Rateable Values.

These are not likely to bring any Christmas cheer. I would think that they will pretty much ignore the downturn during covid, in turnover, yet still look at the 'goldrush' year of 2021 in their calculations, meaning that many will be seeing substantial increases in the Rateable Values. For those that will still benefit from Non-Domestic Rates Relief, it's less of a worry, but for all those that actually pay Business Rates, (about 5% of the sector, but about 40% of PASC UK Members) rises could be significant and coming at a time of well publicised other pressures.

As soon as the Rateable Values arrive, we will get a much clearer picture of what changes there are, and provide notes on what, if anything can be done against new, higher Rateable Values.

POSSIBLE EXCEMPTION IN DENBIGHSHIRE, ANGELSEY, CONWY ALL SHOULD CHECK

We have had a couple of Members write and point out that they have found something that might be helpful in getting the Denbighshire Council to view Appeals against the 70 day 'fines' more favourably. It would be worth those of you affected having a good look at your individual Councils websites and seeing if any have anything similar. I'm afraid that we do not currently have the resource to properly check 22 Council websites. If any of you find anything, please let us know at chair@pascuk.co.uk and we'll put it in the next newsletter.

Here are the key words…. 'if it is kept unoccupied by reason of action taken to prohibit occupation'.

The full document is here: https://www.denbighshire.gov.uk/en/documents/council-tax/discounts-and-exemptions/class-g-exemption-application-form.pdf

From a Member that Anglesey has the same 'occupation prohibited by law" clause.

And from another Member.. in Conwy… "Empty because their occupation is forbidden by law"

Let us know if you find anything more…..

UPDATE ON SELF-CATERING OPERATORS BEING 'FINED' FOR NOT ACHIEVING 70/140 IN COVID YEAR

APPEAL LETTERS ARE NOW AVAILABLE ON THE WEBSITE

You can download them here: https://www.pascuk.co.uk/wales-70-day-appeals-papers/

We have prepared the following:

- A list of all the National and Regional Lockdowns in Wales
- Guidance Notes and background comments.
- 22 Different draft letters (One for each Council/Billing Authority in Wales)

The draft letters will enable you to add your details and make any changes necessary and send to your Council, (contact details supplied) to appeal against your 2020-2021 Council bill on the basis that there were exceptional circumstances and effectively prevented for hitting the 70/140-day rule by law.

Just download the List of Lockdowns, the Guidance Notes and your County letter and make the small changes needed to personalise and send to you Council contact as detailed in the draft letter.

We recommend that you do this as soon as possible.

PLEASE CAN ANY OPERATOR THAT SUCCESSFULLY GETS THEIR BILL REDUCED, OR REDUCED TO ZERO BY APPEALING TO THE COUNCIL PLEASE LET ME KNOW? I DO NOT NEED SENSITIVE DETAILS, JUST THE BILLING AUTHORITY NAME. THANKS.

WE CAN THEN REPORT WHICH COUNCILS ARE DOING WHAT IN FUTURE NEWSLETTERS.

COMMON QUESTIONS ON 182 DAY THRESHOLD

Q1. On what date does the measurement of the 182-day threshold begin?

A1. As we have seen in the letter from the VOA this week, properties will be measured on this from April 2022 – March 2023. Therefore, we constantly say that the number one action is to try to achieve 182 days in that period. We understand that not all can or will. Rebecca Evans has repeatedly told us that the Welsh Government made their intention to do this clear from the launch of the 182-day Consultation, so we need to heed it and if necessary, change business models.

It may be that the VOA does not have enough resources to access all businesses in Wales in April next year, and that the process may take some time, some even suggest two years, but our understanding, unless shown in writing, is that Wales Self-catering needs to achieve 182 days by end of March next year in order to avoid reverting to Council Tax with all that entails.

A caveat here: We are still waiting to get a list of exemptions from Premium Council Tax. There will be no exemptions from basic Council Tax if you do not hit 182 days.

Q2. What counts as serviced accommodation? If we start serving breakfast, does that make it serviced rather than SC?

A2. Just serving breakfast will not make you exempt from having to achieve 182-Days. If you change your self-catering business to a bed and breakfast or a hotel model, then it would appear to.

However, this has all kinds of ramifications. You cannot just reclassify yourself.

There are planning considerations, you would also need to get your business changed by the VOA so that you were no longer a self-catering category business, you would need to substantially change your website, to show you are no longer self-catering. We do not believe that for example, offering

an optional breakfast package, will help at all. Lastly. You'd need to check with your insurance. When we looked at this in the pandemic, insurance companies told us that insurance for serviced accommodation was considerably higher than for self-catering.

Q3. If all SC companies became Limited would that give them business rates?

A3. The 182 threshold is not affected in any way but what kind of business you are. The only way to get Business Rates status will be to achieve 182 days.

Q4. If SC holiday lets had a competition each year for a 2-week accommodation prize could those 2 weeks be counted as occupancy?

A4. The answer is no. We have not even asked for competition prizes to be included in the exemptions list and think it is highly unlikely that it would be granted. We have asked for an exemption for weeks that are offered as charitable donations to qualify in the 182 days count.

Q5. How will the VOA determine a Commercial Rate?

A5. The answer is 'it depends'. If you sell weeks at £50 where the usual amount at that time of year is £500 it's obviously not going to work. We have seen just how inflexible the VOA are, they have delisted businesses that achieved 69 days in lockdown, so don't expect sympathy or even a modicum of fair play. That's not to say that you can't do special offers at a reduced price but taking them at what is obviously below cost may not be deemed commercial rates.

PASC UK has webinars on 'Capturing more bookings', and on 'What's wrong with my website', which can be viewed here. https://www.pascuk.co.uk/webinars/ Both can give you tips on driving more bookings in the remaining weeks and months.

Any PASC UK Member in Wales can also book a call with us to talk through ways in which you may be able to generate some more bookings before March and beat the threshold. Please contact chair@pascuk.co.uk to arrange a call. Bear in mind that available dates for calls will now be post 22 November.

TOURISM LEVY MEETINGS UPDATE

You will all be aware that there have been numerous meetings on the Tourism Levy recently.

Just before finalising this newsletter last week, we attended the Welsh Government Tourism Levy Virtual Meeting. Still not a single voice in support. They said at the beginning that 200 registered for it, looks like around 90 turned up. The same questions came up as they always do. The Civil Service panel answer as they always do. Interestingly I was only given 'view' capability, could not vote in polls or see or ask questions. I could see several of your names on the list, so interesting to hear your views.

What's clear is that they are beginning to feel the massive pushback on this. It is now commonly stated that the implementation is many years away. They are clearly trying to do much more work in the background on this one that they have dome for other interventions, and they are still facing hugely challenging questions on how this impacts the visitor economy, basically financial risk assessments, from all sides. Hence why they are pushing out on the implementation period.

We still don't have the notes yet from the North and South Industry meetings on the Levy, however I expect that they will show the following.

- We need to look at ways to feed into the Consultation that says that we are against it, but if it comes in it must do xxxxx and we need to agree on the xxxx.
- Why is it just a bed tax?
- The industry cannot see how this could be implemented without a Registration Scheme in place. Why should some pay the levy and not others?
- The industry is fundamentally against it being able to be applied Council by Council.
- This is not the time, 182 days, cost of living, energy to be bringing this in.
- There is an understanding that per person per night for self-catering would be extremely damaging.

The WG also make comparisons to other Tourism Taxes, most of these are irrelevant, an island like New Zealand applies a single levy to all arriving by sea/air, easily and without involving small businesses in collection. In Europe, there are generally substantially lower VAT rates and Business Rates type taxes.

One interesting point did come from today's meeting. The Tourism Levy team stated that the Levy was in the Manifesto so could not be dropped. One admirable and persistent member of the audience was having none if it, and came back and quoted from the Manifesto, and that it was a commitment to a consultation, not to the tax itself. Touche. We will have to keep the pressure on.

PASC UK will be providing guidance notes on how to respond to the Tourism Levy Consultation prior to the deadline on 13 December 2022.

You can view the Welsh Government Consultation here: https://gov.wales/a-visitor-levy-for-wales

FOLLOW PASC UK ON TWITTER AND RETWEET

Please can you all follow PASC UK Wales Tourism Alliance, and UK Hospitality Cymru on Twitter please?

When you see a post come up, like it, retweet it or make a comment. We need all of you to do this. Politicians do monitor this, so for example Sam Rowlands would see you're grateful for his support and Rebecca Evans would feel your anger.

- PASC UK = @PascUK
- Wales Tourism Alliance = @WTA_Tweets
- UK Hospitality Cymru = ukhcymru

GETTING MORE BUSINESSES TO JOIN PASC UK

Lastly, an appeal, over 2,000 Welsh self-catering businesses are getting this Newsletter today who are not paid-up Members. They are though reliant on PASC UK in partnership with the other lobbying associations to try and mitigate the terrible impact that the collective measures that the Welsh Government is introducing. They are relying on the funds contributed by colleagues to see the work continues. This includes:

- Tourism Tax

- Statutory Licencing
- Ability of Welsh Councils to change planning Rules

If you are not currently a Member you can join online here: https://www.pascuk.co.uk/join-pasc-uk/

Happy to answer any questions that any of you considering joining may have. We look forward to welcoming many more of you onboard as we seek to

Best regards

Alistair Handyside MBE
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Cangen Cymru Wales Branch

DISCLAIMER

We are in completely unchartered territory here, and any suggestions that we make are merely that and you should carefully consider your own business policies, and if necessary, consult with your Professional Advisors. PASC is your lobbying Association, not a legal service. In addition, please be very wary of some of the advice given on internet communities, blogs and social media. There appear to be thousands of experts out there where my understanding is that there are very few.

To that end, any information you get from any source you must double check. I will always try and put the actual link to the information in the newsletters so that you can read and assess yourselves. These are unprecedented times, please take exceptional care.