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Llywodraeth Cymru  
Welsh Government

## **Welsh Government Consultation – summary of response**

### **Amending the Valuation Tribunal for Wales Regulations 2010**

**September 2017**

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.



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## **1. Background**

The Valuation Tribunal for Wales (VTW) is a Welsh Government Sponsored Body. It is independent of the Welsh Government and the Valuation Office Agency. The VTW provides a free service to the public, dealing with appeals concerning council tax, non-domestic rates (NDR) and drainage rates.

The Valuation Tribunal for Wales Regulations 2010 (“the 2010 Regulations”) set out the operating procedures which the VTW is required to follow. They include provisions in relation to the operation of the appeals service, and to the appointment of members, the president, regional representatives and chairpersons, as well as provisions related to administration, accommodation and equipment.

The Welsh Government consulted on proposals to reform the structure and organisational procedures provided for in the Valuation Tribunal for Wales Regulations 2010 in order to:

- remove unnecessary bureaucracy and simplify administrative procedures to allow the Valuation Tribunal for Wales to work more efficiently;
- strengthen governance arrangements to ensure the independence and accountability of the organisation; and
- improve the efficiency of the non-domestic rates appeals process and facilitate future reforms.

The consultation opened on 20 February 2017 and closed on 16 April 2017.

## **2. Summary of responses received**

In total, 16 responses were received. Responses were received from the following categories of organisations and individuals.

- One response from the VTW Governing Body
- Nine additional responses from staff or members of VTW
- One response from Institute of Revenues, Rating and Valuation (IRRV)
- One response from a property consultant (GL Hearn)
- One response from the Valuation Office Agency (VOA)
- One response from the Association of Convenience Shops (ACS)
- One response from a local authority councillor
- One anonymous response

The responses to the consultation have been used to help inform regulations which will be introduced to make amendments to the 2010 Regulations.

The Welsh Government would like to thank all those who responded to the consultation.

### 3. Summary of Comments

This section summarises the responses received to each consultation question. Not all responses necessarily answered the question directly. However, comments have been included where appropriate and relevant.

**Consultation Question 1:** The proposals are intended to strengthen the governance arrangements ensuring they are in line with best practice in administrative justice.

Comments are invited on whether the following proposals achieve this aim. The proposals include:

- Increasing the number of external appointments on the Governing Council from one to three.
- Changing the role of 'regional representatives' to 'national representatives' and reducing the number appointed to the Governing Council from four to three, and removing the role of deputy regional representative.
- Increasing the appointment term for the new national representatives and the president from two to three years.

#### Summary of Comments

Four responses agreed with the proposal to increase the number of external appointments on the Governing Council from one to three. Comments noted that external members could provide valuable skills and experience to the Governing Council. Two responses noted further consideration should be given to ensuring the Governing Council has the correct mix of skills and experience. One response believed two appointments were adequate.

Six responses disagreed. Five responses said that there was already a sufficient mix of skills on the Governing Council. Three responses noted increasing the number of external members might affect the independence of the tribunal.

Two responses said specifically that they did not agree the number of representatives should be reduced to three and that the present structure should be retained to ensure demographic diversity. One response agreed with the proposal and noted that the change would enable the structure of VTW to evolve over time.

No response disagreed with the proposal that in order to be 'quorate' the Governing Council should have a minimum of four in attendance. Eight responses disagreed with the proposal that one of those in attendance must be a Welsh Government appointee. These responses said the distinction between Welsh Government appointees and other members could be divisive.

Of those responses which addressed the specific proposal to increase the term of appointment for the national representatives and the president, six agreed and three disagreed.

The Governing Council agreed with the proposal to lengthen the term but said that this should be in line with the term of office for Welsh Government appointees (which is currently four years). One response said the length of term should be increased to a maximum of five years, potentially reducing the number of elections.

### **Welsh Government Response**

There was a variety of views about the new governance arrangements. The main reason for increasing the number of external appointees is to ensure there is an appropriate level of external scrutiny, particularly given that the role of local authorities in the appointment process for members will be removed. This is in line with good practice in public administration

The Welsh Government recognises additional flexibility may have benefits and it is proposed that 'up to three' external members may be appointed.

The Welsh Government recognises that making a distinction between its appointees and other members of the Governing Council might be considered divisive. The proposal that an external appointee should be present for the Governing Council to be 'quorate' is therefore being removed.

**Consultation Question 2:** The proposals for appointing members and chairpersons are intended to reflect best practice in administrative justice

We invite comments on the following proposals to:

- Remove the role of local authorities in the appointment process;
- Introduce selection panels for members and chairpersons;
- Change the membership number range within legislation; and
- Implement a maximum ten-year term for the membership, with transitional arrangements.

### **Summary of Comments**

No response disagreed with the specific proposal to remove the role of local authorities in the appointments process and to introduce selection panels for appointing members and chairpersons.

One response noted that the involvement of local authorities ensured that 'best practice' was implemented when appointing members and that when their role was removed, this expertise would no longer be available. One response said that the requirement for at least one external appointee on selection panels would be divisive.

Two responses, including that from the Governing Council, agreed with the changes to the membership range within the legislation recognising that the

proposed range of 16 to 160 provided sufficient flexibility. Three responses disagreed with the proposal and argued that workload would not necessarily reduce in future years and there was a need to maintain current member numbers.

Of those responses which directly addressed the proposal to introduce a maximum ten-year term and the associated transitional arrangements, one agreed and six disagreed. The responses which disagreed said the proposals would lead to a significant loss of knowledge and experience in the service which would be difficult to replace. One response commented that it takes many years of training for a member to be ready to take on the role of chairperson.

### **Welsh Government Response**

The Welsh Government remains of the view that, in the longer term, the size of the membership should be reduced in the longer term so resources can be used effectively. It is recognised introducing a maximum ten-year term for existing members might lead to valuable skills and knowledge being lost too quickly. The Welsh Government therefore intends to modify the proposals for existing members.

The Welsh Government wishes to emphasise that the requirement that an external appointee should be present on selection panels for members is in line with good practice in public administration.

**Consultation Question 3:** We invite comments on the extent to which the proposals:

- Reduce the administrative burden of the election procedures; and
- Still ensure the election process is fair and just to both potential candidates and the membership.

### **Summary of Comments**

All eight responses which commented on these proposals agreed with them. Two responses said it should be made clear that potential candidates should be able to provide their statement of suitability in their language of choice.

### **Welsh Government Response**

The VTW is subject to the Welsh Language Standards and must ensure that the Welsh Language is treated no less favourably than the English Language.



**Consultation Question 4:** Are there any additional amendments to the 2010 Regulations which would reduce the administrative overhead of the election procedures?

### **Summary of Comments**

One response said consideration should be given to lengthening the terms of office for Governing Council members to a maximum of five years, potentially reducing the number of elections. Prescribing a maximum term, as opposed to a fixed term, would provide the opportunity to stagger the terms of office and avoid wholesale change in the membership of the Governing Council, thus ensuring a balance between continuity and renewal.

### **Welsh Government Response**

The Welsh Government remains of the view that fixed-term posts are appropriate for the national representatives given they are elected by the membership.

**Consultation Question 5:** The proposals are intended to facilitate the VTW in more effectively managing the large volume of NDR appeals. We invite specific comments on the above proposals in relation to:

- The extent to which they reduce unnecessary administration costs.
- The likely number of cases which could potentially be 'struck out' in a timely manner.
- Whether or not the proposals ensure that all parties will be satisfied that the appeals process is conducted in a fair and just manner.
- Whether a decision to strike out an appeal should be made the clerk or a tribunal panel.

### **Summary of Comments**

The response from the Governing Council said the strike-out provisions could only be used if the clerk was given 'registrar functions' that allowed the dismissal of appeals and the ratification of incomplete agreements. The response commented that pre-hearing interaction with parties on the details of their case was minimal. For strike-out provisions to be effective, procedures would have to be developed for exchange of cases between parties and submission of papers well in advance. The VOA also suggested that providing the VTW with 'direction-making' powers in line with those of the Valuation Tribunal for England would be a prerequisite.

Two responses suggested the strike-out rules would not address the underlying issue relating to the issue of an NDR query automatically becoming an appeal after a fixed length of time. One response said that the strike-out rules might in part address why many appeals are dismissed or rubber-stamped at hearing stage. It noted that it might be possible to strike out a proposal where an appellant failed to engage in the process.

Two responses were in favour of the introduction of the strike-out rules and said that the decision should be made by the clerk.

The VOA commented that, for fairness, the two-week window for parties to respond before a 'strike-out' should be lengthened to one month.

In respect of cases where the strike-out provision would enable an appeal to be struck out if initial agreement with the VOA has already been reached, one response said this would mean the VTW would be reliant on the VOA informing them of this and this would impinge on the independence of the process.

Two responses said that, in these cases, there can often be delays between the agreement of an appeal as a result of procedures within the VOA or of the time to obtain instructions from the ratepayer. The proposals could leave the ratepayer with an 'unagreed' valuation, having lost the right of a hearing due to the determination. To minimise the number of cases going to the Upper Tribunal, they suggested that instead, this scenario could be dealt with by postponing the hearing pending completion of the agreement process which is something that has applied by the Valuation Tribunal for England by way of [Practice Statement B5](#).

#### **Welsh Government Response**

Additional 'strike-out' powers will not be provided to the VTW at this stage. However, the Welsh Government does propose to amend legislation to allow the VTW to dispose of an appeal (without a hearing) where there is agreement between the parties.

**Consultation Question 6:** Comments are invited about whether the proposals to ensure the VTW is able to meet its duties under the Equality Duty 2010.

#### **Summary of Comments**

There was one response from a member of VTW referring to personal circumstances and the adjustments made by the VTW.

#### **Welsh Government Response**

It is the responsibility of the VTW to meet its obligations under the Equality Duty 2010. The VTW's ability to meet its obligations under the Equality Duty will be reviewed as part of the regular monitoring arrangements.

**Consultation Question 7:** Comments are invited about the effects (whether positive or adverse) the introduction of the proposals would have on opportunities for persons to use the Welsh language and on treating the Welsh language no less favourably than the English language.

#### **Summary of Comments**

Two responses said it should be made clear that potential candidates for posts should be able to provide a statement of suitability in their language of choice.

### **Welsh Government Response**

The VTW is subject to the Welsh Language Standards and must ensure that the Welsh language is treated no less favourably than the English language

**Consultation Question 8:** We invite comments on whether the proposals could be formulated or revised to have positive effects or decreased adverse effects, on opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language.

### **Summary of Comments**

Two responses noted that limiting the maximum term for members might risk the ability of the VTW to continue to offer the same level of service if it was unable to recruit bilingual replacement members.

### **Welsh Government Response**

The Welsh Government remains of the view that in the longer term, the organisation should be working towards reducing the size of the membership so that resources can be used effectively. The Welsh Government considers that a maximum term of ten years will enhance the ability of the VTW to reflect its user population, which includes Welsh speakers.

#### **4. List of Respondents**

Responses were received from the following individuals and organisations.

Valuation Tribunal for Wales Governing Council

Seven Valuation Tribunal for Wales Members

One member of staff of the Valuation Tribunal for Wales

Institute of Revenues, Rating and Valuation (IRRV)

Royal Institution of Chartered Surveyors (RICS) Wales

GL Hearn (property consultant)

Valuation Office Agency (VOA)

Association of Convenience Shops (ACS)

One County Councillor

One individuals