



Llywodraeth Cymru
Welsh Government

Number: WG45526

Welsh Government
Consultation – Summary of Responses

Non-Domestic Rates

A Technical Consultation on the draft Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023 – Summary of Responses

4 November 2022

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

OGL © Crown Copyright Digital ISBN 978-1-80391-980-5

Overview

This document provides a summary of the responses to the technical consultation on the draft Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:
Local Government Finance Reform Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
Email: LGFR.Consultations@gov.wales

Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation:

<https://gov.wales/regulations-reforming-non-domestic-rates-appeals-system-wales>

Contents

Introduction	4
Proposals	4
Engagement.....	5
Overview of responses.....	5
Summary of responses	5
Next steps	9
Annex A: List of respondents	11

Introduction

1. The Welsh Government previously [consulted](#) on proposals to reform the non-domestic rating (NDR) appeals system, between 17 October 2017 and 9 January 2018. Respondents were asked to consider various aspects of the system in Wales and give their views on potential changes to the following aspects.
 - Improving the appeals process
 - Registration for the appeals process
 - Time periods for each stage
 - Provision of information
 - Backdating appeals
 - Fines (civil penalties)
 - Appeal fees
 - The role of the Valuation Tribunal for Wales (VTW).
2. One of the key messages from the consultation responses was that no changes should be made midway through an NDR list (between revaluations) and that the preferred timing for changes would be the beginning of the next new list, then planned for 1 April 2021. As a result of the coronavirus pandemic, the next revaluation has been rescheduled to 1 April 2023.
3. On 29 March 2022, the Minister for Finance and Local Government made a statement setting out the Welsh Government's plans to reform non-domestic rates during the current Senedd term. This includes plans to move towards more frequent revaluations. Changes to the appeals system, underpinned by the adoption for Wales of a digital platform delivered by the Valuation Office Agency (VOA), will be a critical enabler for this objective, ensuring that ratepayers in Wales are able to benefit from ongoing improvements.
4. This was a technical consultation on the draft Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023 ('the draft Regulations'), which will provide for the adoption of the VOA's digital platform for Wales and a small number of additional changes to the arrangements for appeals to the VTW.
5. The consultation sought views about the legislative and practical application of the draft Regulations. It was open for a 12-week period. The consultation applies to Wales only.

Proposals

6. The appeals system is administered by two independent organisations, each responsible for different stages of the process. The VOA is responsible for the valuation and listing of hereditaments for NDR, including the consideration of proposals from ratepayers who believe their valuation should be changed. The VTW is responsible for appeals, when agreement is not reached between a ratepayer and the VOA in relation to a proposed change to a valuation.

7. The stages of the process underpinned by the VOA's digital platform represent new concepts to replace the existing process. A penalty regime will also be introduced, allowing fines for the provision of information known to be false. The changes required to the VTW appeal stage are more limited. The grounds, process, and time limits for making an appeal will be established. There will also be limitations placed on the provision of new evidence at appeal stage. The general arrangements for the VTW to handle appeals will not change.

Engagement

8. Views were invited as part of a 12-week consultation period from 19 July to 11 October 2022. The consultation was published on the consultation pages of the Welsh Government's website. Respondents were able to submit their views and comments on paper, by email or online, and in Welsh or English.

Overview of responses

9. In total, the consultation received 11 responses. Six were from representative or advisory bodies and one was from the Valuation Tribunal for Wales. Four respondents wished to remain anonymous.
10. A full list of respondents is given in Annex A.

Summary of responses

11. This document is intended to be a summary of the responses received. It does not aim to capture every point raised by respondents, but to highlight the key themes. One respondent did not answer the individual consultation questions and instead provided wider views.

12.

Q1. Do the draft Regulations provide clarity on the procedure for a 'check'?

13. Seven respondents agreed that the draft Regulations do provide clarity, subject to further comments in some cases. Three respondents were of the view that they do not provide clarity, but provided limited comments.
14. Three respondents welcomed the alignment of the draft Regulations with those applicable in England, to provide consistency for ratepayers and agents operating in Wales and England. Two of these commented that they consider the 12-month deadline for the VOA to complete a check to be too long.
15. Three respondents provided wider comments on the operation of the procedure and exchange of information with the VOA, rather than the clarity of the draft Regulations. One respondent noted the onus on ratepayers to provide or confirm information about their property and was of the view that this may be challenging for small businesses.

Q2. Do the draft Regulations provide clarity on the procedure for a ‘challenge’?

16. Six respondents agreed that the draft Regulations do provide clarity, subject to further comments in some cases. Three respondents were of the view that they do not provide clarity, but provided limited comments. One respondent provided comments which are reflected in the summary below.
17. Three respondents welcomed the alignment of the draft Regulations with those applicable in England, to provide consistency for ratepayers and agents operating in Wales and England. Two of these commented that they consider the 18-month deadline for the VOA to reach a decision on a challenge to be too long. One respondent suggested that some additional deadlines should apply to intermediate stages in the process, such as the VOA refusing an incomplete challenge.
18. Three respondents provided wider comments on the operation of the procedure by the VOA, rather than the clarity of the draft Regulations. One respondent noted the onus on ratepayers to provide evidence in support of their challenge and suggested there should be more of a partnership approach with the VOA.

Q3. Do the draft Regulations provide clarity on the procedure for imposing a penalty for knowingly, recklessly or carelessly providing false information?

19. Seven respondents agreed that the draft Regulations do provide clarity, subject to further comments in some cases. Three respondents were of the view that they do not provide clarity, but provided limited comments. One of these respondents questioned how information being false in a material particular would be defined.
20. Some respondents provided wider comments on the operation of the penalty regime by the VOA. Two commented that penalties are appropriate for the deliberate provision of false information, but that it would be important to consider the distinction between this and inadvertent mistakes in determining whether to issue a penalty. One commented that some ratepayers could be deterred from engaging in the process due to fear over penalties.

Q4. Do the draft Regulations provide clarity on the procedure for making an appeal to the Valuation Tribunal for Wales?

21. Five respondents agreed that the draft Regulations do provide clarity, subject to further comments in some cases. Three respondents were of the view that they do not provide clarity, one of which suggested changes that could be made to improve clarity. Two respondents reiterated wider comments on the operation of earlier stages in the process.
22. The VTW commented that, where provision is made for late appeals to be considered under certain circumstances, it should be clarified that it is the President of the VTW who would decide whether such an appeal will be considered. The VTW also requested broader appeals management provisions

which would enable them to specify how they will manage elements of the appeals process that are not prescribed in regulations. These would be similar to equivalent provisions applicable to the Valuation Tribunal for England, which the VTW consider are central to making the appeal stage of the reformed process work well.

23. Three respondents provided wider comments on the operation of the appeals stage, rather than the clarity of the draft Regulations. These included comments on the importance of informing ratepayers how to make appeals, given that they will not automatically transfer to the VTW. Four respondents welcomed the absence of fees for making appeals.

Q5. Do the draft Regulations provide clarity on the restrictions on new evidence admitted at appeal?

24. Five respondents agreed that the draft Regulations do provide clarity, subject to further comments in some cases. Two respondents were of the view that they do not provide clarity, but did not comment further. Three respondents provided comments which are reflected in the summary below.
25. Three respondents commented that the meaning of exceptional circumstances for the admission of new evidence should be defined or not be so narrow as to exclude information that was not known about earlier. One of these also commented that it must be clarified that the VTW, rather than the VOA, is able to determine the admissibility of new evidence at the appeal stage. The VTW commented that the requested broader appeals management provisions would enable it to specify how it will manage the process of receiving applications to submit new evidence.
26. The VTW also commented that the draft Regulation dealing with general arrangements for evidence at the appeal stage would be partly redundant and could result in a repetition of some of the steps within the check stage. They suggested replacement provisions dealing with evidence and submissions that could be replicated with amendments from those applicable to the Valuation Tribunal for England.
27. Three respondents provided wider comments on the completeness of evidence, rather than the clarity of the draft Regulations. These included views that the VOA should seek to ensure the completeness of information before clearing the check stage and that there would be certain circumstances where additional evidence may be required by either party to an appeal.

Q6. Are there any other issues regarding the practical application of the draft Regulations?

28. Eight respondents answered this question. One respondent commented that it is helpful that the draft Regulations will enable the VOA to take a consistent approach in Wales and England. They noted that ratepayers and advisors who are not already familiar with the approach will require guidance to ensure they can follow it.

29. The VTW set out additional detail in relation to its request for broader appeal management powers. This included specific references to the relevant provisions applicable to the Valuation Tribunal for England, which it considered appropriate to replicate with amendments for the VTW.
30. One respondent commented that a consequential amendment should be made to the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, to reflect the changes in the process. Without amendment, the material day for the grounds of certain challenges relating to a material change of circumstances would continue to be the day on which a proposal is received. The respondent noted that, in relation to England, this has been amended to the day on which the confirmation of a check is received, to ensure ratepayers do not lose the right to make a challenge under certain circumstances. They proposed alternative approaches to defining the material day which they considered to be better.
31. One respondent was of the view that the VOA should not be the sole arbiter of whether a proposal is incomplete, noting that there is a route of appeal for proposals deemed invalid under existing arrangements.
32. Two respondents were of the view that the process would place additional pressure on small businesses. One respondent commented on practical constraints of the VOA's systems in relation to multiple ratepayers needing to claim a property during the life of a rating list.

Q7. Do you have any other comments about the drafting of the draft Regulations?

33. Five respondents answered this question. One respondent welcomed the clarity provided by a fresh set of regulations, rather than making amendments to the existing regulations.
34. The VTW commented that the coverage of the types of non-domestic rating appeals within its jurisdiction requires amendment to address the omission of appeals against the imposition of a penalty under the draft Regulations.
35. One respondent commented that, where a longer deadline for the submission of proposals relating to specific material changes of circumstances is allowed by the draft Regulations, there is no equivalent extension to the time available to resubmit an incomplete proposal.

Q8. The Welsh Government would like your views on the effects these proposals would have on the Welsh language, specifically on:

- i. **opportunities for people to use Welsh; and**
- ii. **on treating the Welsh language no less favourably than English.**

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

36. Two respondents answered this question. They were of the view that the proposals would not have any effect on the use of the Welsh language.

Q9. Please also explain how you believe the proposals could be formulated or changed so as to have:

- i. 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; and**
- ii. 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.**

37. One respondent answered this question. They were of the view that the proposals would not have any effect on the use of the Welsh language.

Q10. We have asked a number of specific questions. If you have any related points which we have not specifically addressed, please use this space to record them.

38. Four respondents answered this question. One respondent did not answer the consultation questions, but instead provided wider comments.

39. Four respondents made or reiterated comments on the practicalities of the system and administrative burden on ratepayers, noting areas where they consider improvements are required to the system underpinning the check and challenge stages.

40. Two respondents noted that future changes are proposed to the process being operated in England and suggested that the Welsh Government should delay adoption of the same approach for Wales until the rating list compiled after the one that will start from 1 April 2023.

Next steps

41. The reservations expressed by some respondents about the adoption of the reformed appeals process for Wales are recognised. The Welsh Government has considered the responses received to our previous policy consultation on changes to the appeals system for Wales and placed the decisions that led to this technical consultation in the context of our wider plans for the reform of non-domestic rates. In particular, adopting the process underpinned by the VOA's digital platform is an important enabler for further reform, including more frequent revaluations, in future.

42. Although the VOA did not submit a formal response to the consultation, the Welsh Government has discussed the draft Regulations with the VOA and the VTW, to ensure they will enable both organisations to operate their elements of the system in line with the policy intention.

43. The Welsh Government will make the draft Regulations, subject to some changes arising from responses to this consultation and detailed feedback from the VOA and VTW, including those set out below.

- a. A check will be taken to have been completed in respect of a new property, where it has been created from the reconstitution of existing property for which a check had already been completed.
 - b. Where a longer timescale for the submission of proposals relating to specific material changes of circumstances is allowed, the time available to resubmit an incomplete proposal will be extended so that the deadlines are aligned.
 - c. Broader appeals management provisions requested by the VTW, to enable them to specify how they will manage elements of the appeals process that are not prescribed in regulations, will be included. The provisions related to the handling of evidence and submissions by the VTW will also be updated to ensure they are compatible with the broader changes.
 - d. It will be clarified that the VTW President will decide whether late appeals will be considered.
 - e. A consequential amendment will be made to the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, so that the material day for the grounds of certain challenges relating to a material change of circumstances is taken as the day on which the confirmation of a check is received, rather than the day on which a proposal is received.
44. The draft Regulations will be laid in due course and, subject to the approval of the Senedd, will come into force from 1 April 2023.

Annex A: List of respondents

Four respondents wished to remain anonymous. The other seven respondents are as follows.

Altus Group
Federation of Small Businesses
GL Hearn
Jones Lang LaSalle
The Rating Surveyors' Association
Royal Institution of Chartered Surveyors
Valuation Tribunal for Wales