

A new tribunal system for Wales: white paper

Consultation Responses December 2023

Respondent 001

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No Response

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No Response

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

No Response

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

No Response

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No Response

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No Response

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No Response

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No Response

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No Response

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

No Response

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No Response

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No Response

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No Response

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No Response

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No Response

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

No Response

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

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Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No Response

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

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Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No Response

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No Response

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No Response

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

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Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

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Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

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Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No Response

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Dylid sicrhau bod y ddau endid yn sicrhau cydymffurfiaeth â Safonau'r Gymraeg yn y maes hwn, sef i gynnal asesiad ar gyfer pob penodiad o'r angen am sgiliau yn y Gymraeg ar gyfer y swydd, a chategoreiddio'r swydd dan sylw yn unol â'r categorïau a nodir yn y safonau (sef bod sgiliau Cymraeg yn hanfodol, yn ddymunol, neu fod angen ei dysgu, neu nad oes angen sgiliau Cymraeg ar gyfer y swydd)

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Dylid sicrhau bod y ddau endid yn sicrhau cydymffurfiaeth â Safonau'r Gymraeg yn y maes hwn, sef i gynnal asesiad ar gyfer pob penodiad o'r angen am sgiliau yn y Gymraeg ar gyfer y swydd, a chategoreiddio'r swydd dan sylw yn unol â'r categorïau a nodir yn y safonau (sef bod sgiliau Cymraeg yn hanfodol, yn ddymunol, neu fod angen ei dysgu, neu nad oes angen sgiliau Cymraeg ar gyfer y swydd)

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Dylid sicrhau bod asesiadau dan Safonau'r Gymraeg yn dod i gasgliadau gwrthrychol a oes angen i unrhyw aelod a bendodi feddu ar sgiliau yn y Gymraeg.

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No Response

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No Response

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

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Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Response

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No Response

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No Response

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

No Response

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No Response

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No Response

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Rydych yn cynnig creu corff statudol hyd braich oddi wrth Lywodraeth Cymru sydd â chyfrifoldeb gweithredol dros weinyddu Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru. Rwyf yn cymryd bod y cynnig yma wedi deillio o argymhelliad y Comisiwn y dylai'r Uned Tribiwnlysoedd newid o fod yn uned o fewn Llywodraeth Cymru, i fod yn asiantaeth weithredol neu'n adran anweinidogol sydd ar wahân i'r Llywodraeth.

Hoffwn wneud ychydig o sylwadau ar yr effeithiau negyddol y byddai'r newid yma yn ei gael, oni bai bod newidiadau sylfaenol yn cael eu gwneud i Reoliadau Safonau'r Gymraeg sydd eisoes wedi eu pennu gan Weinidogion Cymru.

Gwnaeth Mesur y Gymraeg (Cymru) 2011 gadarnhau statws swyddogol y Gymraeg yng Nghymru a chreu fframwaith deddfwriaethol newydd ar gyfer yr iaith, sef safonau'r Gymraeg.

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

Mae Rheoliadau Safonau'r Gymraeg (Rhif 4) 2016 ('y Rheoliadau') (https://www.legislation.gov.uk/wsi/2016/405/pdfs/wsi_20160405_mi.pdf) yn pennu safonau cyflenwi gwasanaethau, safonau llunio polisi, safonau gweithredu, a safonau cadw cofnodion. Mae'r Rheoliadau hefyd yn gwneud safonau yn benodol gymwys i'r 6 sefydliad a ganlyn, gan alluogi Comisiynydd y Gymraeg ('y Comisiynydd') i roi Hysbysiadau Cydymffurfio i'r sefydliadau hynny mewn perthynas â'r safonau a bennwyd:

Tribiwnlys Tir Amaethyddol (Cymru)
Cyngor y Gweithlu Addysg
Tribiwnlys Adolygu Iechyd Meddwl Cymru
Tribiwnlys Eiddo Preswyl Cymru
Tribiwnlys Anghenion Addysgol Arbennig Cymru
Tribiwnlys Prisio Cymru

Mae Memorandwm Esboniadol y Rheoliadau (<https://senedd.cymru/media/kichq32p/sub-ld10586-em-w.pdf>) yn nodi:

"Eithriadau ar gyfer y Tribiwnlys Tir Amaethyddol (Cymru), Tribiwnlys Adolygu Iechyd Meddwl Cymru, Tribiwnlys Eiddo Preswyl Cymru a Thribiwnlys Anghenion Addysgol Arbennig Cymru

Nid yw'r Rheoliadau'n awdurdodi'r Comisiynydd i'w gwneud yn ofynnol i'r pedwar sefydliad uchod gydymffurfio â'r safonau gweithredu yn Atodlen 3 ac felly safonau cadw cofnodion sy'n ymwneud â safonau gweithredu, a safonau atodol sy'n ymwneud â'r safonau gweithredu. Mae hyn oherwydd bod y sefydliadau yn cael eu gweinyddu gan staff Llywodraeth Cymru ac mae'r staff hynny'n cael eu cynnwys yn y safonau gweithredu y mae'n ofynnol i Weinidogion Cymru gydymffurfio â nhw."

Mae'r sylw uchod yn y memorandwm esboniadol yn awgrymu, wrth lunio Rheoliadau Safonau'r Gymraeg Rhif 4, bod Gweinidogion Cymru wedi gwneud penderfyniad i beidio â gwneud y safonau gweithredu (a'r safonau cysylltiedig) yn benodol gymwys i'r pedwar Tribiwnlys dan sylw oherwydd bod trefniant i'r sefydliadau hyn i gael eu gweinyddu gan staff Llywodraeth Cymru.

O ganlyniad i hynny, mae'n ymddangos yr oedd Gweinidogion Cymru yn fodlon peidio â gwneud y safonau gweithredu a restrir yn Rheoliadau Rhif 4 yn benodol gymwys i'r Tribiwnlysoedd hyn oherwydd y byddai'r safonau gweithredu y mae Gweinidogion Cymru dan ddyletswydd i gydymffurfio â nhw (yn unol â Rheoliadau Safonau'r Gymraeg Rhif 1) yn gymwys i'r Tribiwnlysoedd hynny.

Pe bai sefyllfa yn codi yn y dyfodol lle na fyddai'r Uned Tribiwnlysoedd yn rhan o Lywodraeth Cymru, ni fydd y safonau gweithredu sydd wedi'u gosod ar Weinidogion Cymru yn cael unrhyw effaith ar weithrediad y Tribiwnlysoedd dan sylw, fel ag y maent ar hyn o bryd. Yn ymarferol, byddai hyn yn golygu na fydd dyletswydd ar Weinidogion Cymru (na chwaith y Tribiwnlysoedd eu hunain) i sicrhau bod y Tribiwnlysoedd yn defnyddio'r Gymraeg o fewn eu gweinyddiaeth fewnol, i ystyried y Gymraeg wrth recriwtio staff, i asesu sgiliau iaith Gymraeg eu staff nac i wneud nifer o bethau eraill sy'n hanfodol eu gwneud i sicrhau bod y sefydliadau hyn yn gallu darparu gwasanaethau i'w rhanddeiliaid yn Gymraeg.

Er mwyn sicrhau na fydd unrhyw ddiwygiad a fwriedir yn achosi unrhyw effeithiau andwyol i'r iaith Gymraeg, ac i sicrhau bod y Tribiwnlysoedd yn parhau i gydymffurfio â'r safonau gweithredu o dan Fesur y Gymraeg, bydd rhaid cymryd un o'r camau hyn wrth greu'r sefydliad newydd:

1) Diwygio Rheoliadau Safonau'r Gymraeg (Rhif 4) i wneud y safonau gweithredu (a'r safonau cysylltiedig) a bennir ynddynt yn benodol gymwys i Tribiwnlys Tir Amaethyddol (Cymru), Tribiwnlys

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Adolygu lechyd Meddwl Cymru, Tribiwnlys Eiddo Preswyl Cymru a Thribiwnlys Anghenion Addysgol Arbennig Cymru. Bydd hyn yn galluogi i'r Comisiynydd ei gwneud yn ofynnol i'r Tribiwnlysoedd hyn gydymffurfio â'r safonau gweithredu sydd wedi'u pennu yn Rheoliadau Rhif 4 (yn hytrach na'r trefniant gyfredol bod y Tribiwnlysoedd yn gweithredu'r safonau gweithredu y mae Gweinidogion Cymru dan ddyletswydd i gydymffurfio â nhw yn unol â'u hysbysiad cydymffurfio nhw); neu

2) Pennu Rheoliadau Safonau newydd ar gyfer yr asiantaeth weithredol/adran anweinidogol newydd, sy'n cynnwys safonau gweithredu. Os bydd y sefydliad newydd yn gyfrifol am weinyddu'r Tribiwnlysoedd yn yr un modd ag y mae Gweinidogion Cymru (drwy'r Uned Tribiwnlysoedd) yn gyfrifol am weinyddu'r Tribiwnlysoedd ar hyn o bryd, byddai'r safonau gweithredu y byddai'r sefydliad newydd dan ddyletswydd i gydymffurfio â nhw (yn unol â'r Rheoliadau Safonau newydd) yn gymwys i'r Tribiwnlysoedd hynny. Yn yr un modd â'r sefyllfa bresennol, byddai'r Tribiwnlysoedd yn parhau dan ddyletswydd i gydymffurfio â'r safonau cyflenwi gwasanaethau, llunio polisi a chadw cofnodion a osodwyd arnynt yn unol â Rheoliadau Rhif 4.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Dylid sicrhau bod Rheoliadau Safonau'r Gymraeg yn cael eu diwygio neu eu creu o'r newydd gan Weindogion Cymru er mwyn sicrhau bod unrhyw gorff newydd a sefydlir yn cydymffurfio â Safonau'r Gymraeg.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

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Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 002

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No

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No

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Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

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Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

No

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No. Welsh Government must take a "if it's not broken don't fix it attitude" to anything that is ostensibly working within Wales, and concentrate all its time and resources on what is broken. Our NHS is basically a "No Hope Service" and certainly no better than England, and appears to be getting worse. This affects all of the citizens and taxpayers of Wales, so anything outside of this cannot and must not have time and

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money wasted on it. This devolution diversion will divert precious taxpayer resources away from other far more important needs for the people of Wales.

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No

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No

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No - again a waste of tax payer money on an issue that is a devolution vanity project and not important to the vast majority of Welsh tax paying citizens

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

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- e) rules on remote hearings.

No

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No. It is simply not important to the people of Wales. A functioning NHS is, and so is high quality transport infrastructure.

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

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- b) 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?

Irrelevant.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Irrelevant.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

As I have maintained, the Welsh Government needs to concentrate on what the Welsh tax paying citizens want and need, and this is not important to them.

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

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Respondent 003

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yes but at least bilingually so as to be inclusive of the vast majority of people living in Wales

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Employment issues, wage theft, racism, age discrimination etc etc

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Depends on how it is run and whether members of the public are on the panel, it will be useless if it continues to be 'male,pale and stale' i.e not representative of the people living in Wales

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes in theory but the practice may be very different.

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Not clear on the chambers idea but I assume this is similar to the chambers currently in the UK, it makes sense to keep similar things together if that is the plan

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

yes, independent and fully accountable to the public

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

the public, no-one in any form of governmental post or office or employees of such. lawyers, judges, business people, TU reps

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

none except that it should not be based in religious terms

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

yes and more than arms length - completely separate. Democratically appointed not by a minister.

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

It should be an independant judicial system - it doesn't need to have any fancier name than that, it should be very transparent and not top heavy with a bunch of bureacrats who add nothing to it.

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Democratically elected to attempt to remove direct political influence.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

It should be simple, cheap and transparent.

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No the president should be able to undertake reviews and make decisions on cases and should not therefore be involved in adjudicating on cases.

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

no - should be democratically elected and contain a REAL cross section of the population of Wales

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Appointments should not be made these people should be elected and be accountable to the public

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes and not just encourage the make up has to be representative or it will just be another waste of money that the public won't trust

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes - include criminals, include people with mental health issues, disabled people, people with neurodivergence etc EVERYONE should be represented.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

NO

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

I have no idea what that means, but id it means swapping people around then no that immediately takes away the independence. Appointments of decision makers should be short term

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

S/he should be chosen by their peers not by the government

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

complaints process must be simple and quick

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

yes - someone democratically appointed

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

keep it simple and make it real

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

yes

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

yes, by constantly monitoring results and outcomes and watching to see if anything actually changes as a result

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 004

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

In principle this needs to be monitored & adjusted if necessary

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Potentially if run effectively which some Tribunals are not. It needs to be simplified.

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Potentially again this needs monitoring & regular reviews

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes it is ridiculous that Crown Court has to be sought for some subjects which leads to injustice as finance can be a potential barrier to end users seeking justice.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No I do not over reach

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

All Educational matters should be transferred to First Tier Tribunal, POST 16, COLLEGES in line to support ALN 2021 Act. Currently Crown court is a barrier for post 16 to 25 years to be afforded justice so is conflicting to objective

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yrs

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

ALN 2021 up to age of 25 years all educational matters, COLLEGES without a need for Crown Court.

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No I do not

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No I do not over reach

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yrs

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Need further information certainly a end user or end user steering group to shape what this could look like

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Yes swear on bible

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes with appeal powers for complaints to ministers

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

WG sponsored body

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Definitely not

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

All education matters to age 25 years in line ALN 2021 colleges included to be put to Tribunal

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

In principal yes, but not to stifle panels, dictate or bully which is culture in Wales

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Some not sll

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

I'm principal this needs to be monitired

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

A

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Nope best pwrson for the job. Diversity is not always the best person its to satisfy Welsh stats

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes within scope

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Public consultation and previoys users to input on steering groups

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Robust systems needs to be adopted as both WG & tribural services are known as corrupt

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes decided by Public consultation

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes with end user inputs

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes with end user input

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

A B,D

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

That's your job involve end users

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No one speaks Welsh in Wales waste of resources

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

B

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Include all ALN 2021 matters including colleges in legislation and up to age of 25 years to appeal to Tribunal rather than current Crown court

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 005

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

YES

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

YES

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

YES

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

YES

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

YES

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

YES

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

YES

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

YES

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

YES

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

YES

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

YES

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

NO

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

YES

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

YES

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

YES

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

YES

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

DON'T KNOW

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

YES

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

NO

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

YES

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

NOT SURE

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

President of Welsh Tribunals Ex Officio

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No yes

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes I think

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

on the whole yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

suppose so

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

yes

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

yes

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

yes

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

not sure

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

not sure

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

yes in principle

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

sort of

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

yes but not sure

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Depends lots of pluses and minuses

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

not really sure

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

no

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 006

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

yes,

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

yes

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

yes i do as it appears to be creating more diversity within the tribunal setting

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

yes

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

no

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

yes i do agree.

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

yes

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

yes

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

yes

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

yes

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Electively home educated. safeguarding, children's rights, rental property

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

yes

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

yes

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

members of the senedd

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

not sure

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

no

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

yes as they provided unique structural independence

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

no

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

no

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

yes

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

yes

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

yes

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

yes

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

yes

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

yes

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

yes

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

yes

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

yes

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

yes 3 years

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

I think it puts a lot of people who cannot speak Welsh at a disadvantage.
It would be good to incorporate Welsh language however I think English lang should be the go too.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

NO comment

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 007

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

yes in principle

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

no objections

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

no objections

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

no comment

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

no comment

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

no comment

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes. Independent panels are suitably trained and more than capable of hearing these appeals. Admission authorities and the independent clerks currently provide a bespoke, personal and sensitive service to appellants in what is a stressful and emotive process, with an ability to communicate on a very personal level with appellants and offer flexibility in terms of the hearings themselves that are heard locally and/or virtually. Admissions decisions and appeals are time-sensitive, with all parties requiring clarity on decisions far in advance of the academic year that is subject to appeal, transferring to the first-tier tribunal would frustrate this process for all parties. Independent appeals panels currently have in-depth knowledge of particular issues faced within local authority areas, a transfer to first-tier tribunal would lose this essential local knowledge. It is submitted that such a transfer would be a daunting prospect for many appellants as a more formal arms-length procedure is inappropriate for such an emotive subject, in turn this could lead to appellants being dissuaded from pursuing their right of appeal

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No. The admission application is the parents' first opportunity in the process, and the admissions appeal is the second opportunity. To afford a third opportunity to the first-tier tribunal would be excessive. It would also be time-consuming and would not be beneficial to any of the parties e.g admissions decisions are made in March, appeals are heard in May, therefore if a further right of appeal were introduced those appeals would not be submitted until around July in respect of school places in the forthcoming September. It is not feasible or realistic to expect that the first-tier tribunal would be able to make decisions on all appeals by September, this would be extremely detrimental to the pupils in question. It is also not realistic to expect admission authorities to compress their admissions processes in order to make admissions decisions earlier in the year. Further, as appellants are largely unrepresented in school admission appeals and not entitled to legal aid, how many appellants would be in a position to identify a 'point of law', thus it is anticipated that most unsuccessful appellants would appeal to the first-tier tribunal thus requiring authorities, clerks and the tribunal service to allocate significant additional resources (that are not available) to administer the second appeal.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

not in relation to school admission appeals for reasons outlines at 9 above

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

no comment

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

yes in principle but not in relation to school admission appeals

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

yes

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

no comment

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

possibly

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

no

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

no comment

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

no comment

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

no

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No Response

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No Response

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No Response

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

No Response

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

No Response

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No Response

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No Response

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No Response

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No Response

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Response

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No Response

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No Response

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

No Response

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No Response

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No Response

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) Rhondda Cynon Taf CBC Legal Services

Contact details

-

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 008

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

None

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes. I believe that law society accredited mental health solicitors should be given first preference as they have vast experience of Mental health law.

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

I believe that law society accredited mental health solicitors should be given first preference as they have vast experience of Mental health law.

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No Response

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No Response

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Yes

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No Response

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No Response

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

I believe that law society accredited mental health solicitors should be given first preference as they have vast experience of Mental health law.

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

I believe that law society accredited mental health solicitors should be given first preference as they have vast experience of Mental health law.

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

I believe that law society accredited mental health solicitors should be given first preference as they have vast experience of Mental health law.

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

No. I believe that law society accredited mental health solicitors should only be appointed as they have vast experience of Mental health law.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

NO

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

NO

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

YES

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

YES

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

YES

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

YES

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

YES

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

YES

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

REMOTE HEARINGS SHOULD CONTINUE

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No Response

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

I believe that the system for appointing legal members is seriously flawed at present as solicitors with no experience in mental health law are appointed. I believe that law society accredited mental health solicitors should only be appointed as they have vast experience of Mental health law.

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 009

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes, providing disruption is kept to a minimum and the specialism of each are maintained. This is vitally important.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Not at this time as it works differently.

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

We agree with these recommendations and propose that the jurisdiction of
Yes we agree that school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales and adjudicated on as part of Wales' independent tribunal system. We do not consider that those involved in the exclusion of a child from a school

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

approach those decisions lightly, but the consequences of school exclusion for a child and for a school are of the highest significance. It is essential that decision making is consistent and unquestionably independent.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes, but recognize these need to be transferred to an independent authority as soon as possible, and in the meantime agree with the Law Commission that appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes as above

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes, we agree with the proposed chamber structure

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes, we agree that the guiding principle should be that disputes deriving from Welsh law should as a general rule, be heard in a Welsh judicial institution, unless there are circumstances that dictate otherwise identified by the full and detailed analysis of each proposal.

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Decisions around additional learning needs
Decisions regarding permanent exclusions
Decisions about school admissions
Decisions around disability discrimination in schools

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

SNAP Cymru fully supports the law commission and Thomas recommendations. The Law Commission recommended a statutory duty to uphold the independence of the devolved tribunals (see Annex 2, Law Commission recommendation 52). The Commission on Justice in Wales ("the Thomas Commission") was of the view that it is essential the judiciary and other institutions have an independent relationship with the Welsh Government and Senedd and that a statutory duty as regards independence should be in place (Justice in Wales for the people of Wales, paragraph 12.177).

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

First Minister and Counsel General

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

We agree.
We therefore propose to legislate to create a body corporate as a separate legal entity, at arms' length from Welsh Government and with operational responsibility for the administration of the new tribunal system. We consider this model will deliver the structural separation and independence from Government that aligns with the guiding principle of judicial independence and the weight of opinion expressed by both the Thomas Commission and the Law Commission

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

To ensure independence, we agree that the Chair for the Board of Tribunals Wales should be a non-executive member selected through a fair public appointment process.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Agree

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

We agree with the Thomas commission

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes. There should be a Welsh appointing authority.

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

PSOW

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

We agree with the Thomas commission method as long as those providing a case friend service, mediation and dispute resolution are quality assured and funded appropriately to carry out what can often be complex and time consuming casework.

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Because the proposal would mean a devolved tribunal system, we think that the people of Wales will be more engaged and more Welsh speaking appointments will be made to the tribunal system. We hope that this would increase opportunities for people to use Welsh, whereas presently we find that most tribunals are held in English.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

As above

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

/

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) SNAP Cymru

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 010

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No Comment

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No Comment

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

no Comment

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

No comment

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No comment

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No comment

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No comment

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No comment

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No comment

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

no comment

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No comment

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No comment

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No comment

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No coment

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No comment

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

no comment

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No comment

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No comment

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No comment

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No comment

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No comment

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No comment

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No comment

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No comment

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No comment

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No comment

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes. We consider the promotion of diversity in the appointment of Tribunal members to be important.

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes. We consider that the criteria should enable the pool of candidates to be as diverse as possible.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No comment

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No comment

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No comment

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No comment

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No comment

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Comment

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No comment

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No comment

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

no comment

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No comment

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

no comment

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No comment

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No comment

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

-

Organisation (if applicable) Carmarthenshire County Council - Standards committee

Contact details

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 011

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

N/A

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

N/A

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

N/A

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

N/A

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

N/A

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

N/A

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

N/A

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

N/A

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

N/A

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

N/A

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

N/A

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

N/A

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

N/A

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

N/A

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

N/A

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

N/A

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

N/A

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

N/A

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

N/A

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

N/A

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

While the Archives and Records Association (ARA) makes no representations on this matter the status of records created by Tribiwnlysoedd Cymru/Welsh Tribunals would be affected by this. See answer to Q.43 Due to the varied history of the tribunals to be brought together in Tribiwnlysoedd Cymru/Welsh Tribunals ARA believes it would be of value to clarify the status of both new and legacy records of the new organisation either as Welsh Public Records or to make specific alternative provision. This will of course

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

depend on the status of the organisation either as a Non Ministerial Department within the Welsh Government or as an arms-length body.

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

N/A

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

N/A

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

N/A

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

N/A

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

N/A

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

N/A

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

N/A

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

N/A

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

N/A

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

N/A

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

N/A

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

N/A

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

N/A

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

N/A

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

N/A

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

N/A

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

N/A

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

ARA believes that the matters to be considered when developing rules for the First Tier Tribunal and the Appeal Tribunal should include:

- Whether and in what form records of tribunal proceedings and other documents should be published
- Arrangements for access to information on request
- Record keeping and management for current and semi-current records
- Arrangements for the long term preservation of records of historic value

ARA believes that clear and robust arrangements for publication and supply of information in request is essential to ensure public confidence in the working of the tribunal system and to ensure appropriate balance privacy and data protection considerations.

Also see answers to Q. 21 and Q. 43.

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

N/A

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

N/A

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

N/A

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

ARA believes that provision should be made in legislation for the management of current and semi-current records of Tribiwnlysoedd Cymru/Welsh Tribunals along with arrangements for the appraisal and long term preservation of tribunal records of historic value.

Due to the varied history of the tribunals to be brought together in Tribiwnlysoedd Cymru/Welsh Tribunals ARA believes it would be of value to clarify the status of both new and legacy records of the new organisation either as Welsh Public Records or to make specific alternative provision. This will of course depend on the status of the organisation either as a Non Ministerial Department within the Welsh Government or as an arms-length body (see answer o Q. 21).

ARA also believes that the matters to be considered when developing rules for the First Tier Tribunal and the Appeal Tribunal should include whether and in what form records of tribunal proceedings should be published in order to ensure public confidence in the balance privacy and data protection considerations with transparency of the workings of the tribunal system (see answers to Q.39).

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) Archives and Records Association, UK and Ireland

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 012

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No Response

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No Response

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

No Response

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

No Response

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No Response

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No Response

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Undecided. There are a number of unknowns in the recommendations, specifically around the co-ordination and input of the LA for the proposed tribunal system. We have concerns around whether timeframes can be adhered to, which may impact on the ability for the child to return to education settings. Furthermore current exclusion appeal processes are already independent to ensure fairness in

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

our LA.

We do however see some value of this change of direction in relation to exclusions. It gives the impact of permanent exclusion on families and the child the importance it deserves. It is an emotive issue and many families may prefer a tribunal system to state their case.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes agree. We already operate a fair appeals system which is independent. An incredibly high volume of appeals are received weekly, therefore we have concerns about how these will be managed. Timescales are critical in this process and often school places become available so appeals are pulled at very short notices, therefore we wonder about the logistics of managing such a fluid picture.

We ensure experienced panel members who make certain decision are made with fairness and as clerks our view is that it does work well in our LA to obtain fairness for all parties. The whole range of decisions have been made regarding the admissions process.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No. We feel that the process is already independent and has the required tiers to ensure fairness. Parents can refer to the ombudsman, should they feel unhappy with the independent appeals process, or the lawfulness of a decision challenged by way of Judicial Review.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

No Response

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No Response

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No Response

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No Response

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No Response

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No Response

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

No Response

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No Response

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No Response

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No Response

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No Response

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No Response

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No Response

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No Response

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No Response

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No Response

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

No Response

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

No Response

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No Response

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No Response

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No Response

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No Response

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Response

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No Response

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No Response

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

No Response

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No Response

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No Response

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

No Response

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 013

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No Response

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Council: Yes

Independent lay member of Exclusion Panel:

Disagree

The ramifications of decisions of Exclusion Panels can impact significantly on pupils, families, teaching

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

staff and Trustees. Local knowledge should help ensure that decisions are fair, robust and resilient to scrutiny and challenge.
These should continue to be heard at Local Authority level."

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Continuation of determination of School admission issues by local authorities is agreed.
However this function should remain with Local authorities permanently

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

YES

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No comment

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No comment

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

Non-Ministerial Department

It should be independent from Welsh Government to ensure it is arms-length, there is separation of roles and to avoid conflict

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

The President of Welsh Tribunals ex officio

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

It is agreed that day-to-day administration should not sit with ministers.

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

a) yes

b)No. They should also appointed by the President of Welsh Tribunals

c)No. They should also appointed by the President of Welsh Tribunals

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Whilst the Council supports diversity/equality, overall, appointments should be on merit

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

The proposals are agreed

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes.
Consider inclusion of the PSOW

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes
No comment

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

All documents and tribunal hearings should be available in language of choice.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No comment

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Q1 What is the target date for implementation of the proposals contained within the consultation?
Q2 What is the target date for implementation of the proposals within Q8 (phasing of the School

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Admission panel)?
Q3. Are the proposals cost-neutral?

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) Ceredigion County Council

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 014

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No Response

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

- Do not include school admissions appeals. A flexible system is required to meet the needs of parents during a challenging time. At present admission authority provide a significant level of support and information to the appellants.

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

No Response

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

No Response

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No Response

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No Response

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No Response

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

- Yes it should continue.
- In Rhondda Cynon Taff only 1 appellant has ever taken their decision to the Ombudsman, and the result was upheld. This evidences that the current process is robust.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

- No do not agree. At present there are two opportunities to apply for a school place i.e. to the admissions authority and then the independent appeal panel. The initial offer is made on March 1st for Secondary and April 16th for Primary, or the next working day.
 - Appellants must give notice of their appeal within 14 calendar days (10 working days).
 - Appeals are heard within 30 school days of the closing date for the receipt of appeals.
 - For Secondary places the panel meets the week commencing May 8th.
 - A decision is made 5 days after the last appeal i.e. May 20th.
- If an additional appeal is then convened, this would incur significant additional resources required in terms of staff time i.e. Admission officer time and Headteacher time to give evidence and additional training required for admissions authority staff to provide evidence at the hearing. Also it would delay the date at which schools and children are informed of which school they are attending. This would inhibit the school's ability to timetable and allocate sufficient staff resources in advance and sufficient transition time for the children.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

No Response

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No Response

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No Response

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No Response

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No Response

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No Response

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

No Response

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No Response

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No Response

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No Response

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No Response

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No Response

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No Response

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No Response

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No Response

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No Response

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

No Response

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

No Response

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No Response

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No Response

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No Response

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No Response

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Response

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No Response

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No Response

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

No Response

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No Response

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No Response

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 015

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes, those Tribunals listed at paragraph 22 would appear to be the relevant devolved tribunals within the meaning of the consultation.

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes.

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes.

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

The current system and independence of the Valuation Tribunal for Wales is found to work well but subject to the various practical issues being resolved the Council supports the overall principle of creating a unified, coherent tribunal system and therefore – in principle - the jurisdiction of the Valuation Tribunal for Wales being transferred to the First-tier tribunal for Wales.

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No. Given the Valuation Tribunal for Wales operates well as a standalone tribunal and given its current degree of uniformity with the Valuation Tribunal in England it is not considered that this would be helpful in and of itself.

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes. Given the significance of these decisions, the Council agrees they would benefit from being determined by a formal judicial process.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes. The manner in which admission authorities administer appeals through the use of independent panel members with the support of a legal clerk results in robust, consistent and independent decisions. Such appeals are frequent in nature meaning panel members remain current and familiar with the principles involved and have the support of an expert legal clerk on matters of procedure and law when required as well as being able to impart their local knowledge.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Creating a no cost route of appeal to the tribunal would likely result in parents taking the view that they have "nothing to lose" by appealing a decision with which they are dissatisfied irrespective of whether the decision is "correct" or not, thereby potentially resulting in a large number of appeals that might not have merit. Such a number of appeals would be an un-resourced demand on not only on the education and legal teams within councils but also on the tribunal service itself. Whilst appeals would be limited to "points of law" experience suggests that whether a point of law is made out is often determined at a final hearing by which point resources are already expended.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes.

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

As well as those identified within the White Paper, disputes relating to the Mobile Homes (Wales) Act 2013 (i.e. appeals against compliance notices and appeals against decisions not to issue a site licence) would likely lend themselves to the First-tier Tribunal for Wales given that they derive from Welsh law.

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes.

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes.

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Those persons responsible for the administration of justice in Wales within the reformed tribunal system but not extending to users of the First-tier Tribunal for Wales.

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No, however given the historical and symbolic significance across the UK's justice systems and practical significance in terms of the perception of judicial independence this is supported.

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No.

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes.

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

The Council does not hold any strong views on the matter. Both proposed models appear to be appropriate.

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

The Council does not hold any views on the matter.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No.

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes.

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes.

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes.

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes.

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes.

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

The Council does not hold any views on the matter.

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes.

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes.

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes.

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes. It would be helpful for there to be provision for certain basic case management decisions to be made administratively without the need for formal application or referral to a Judge.

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes.

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes.

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

It is not considered that the proposed reforms will have any negative effect on the Welsh Language

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

It is not considered that the proposed reforms will have any negative effect on the Welsh Language

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable) Flintshire County Council

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 016

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Not our focus/area of expertise.

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Not our focus/area of expertise.

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Not our focus/area of expertise.

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Not our focus/area of expertise.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Not our focus/area of expertise.

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Not our focus/area of expertise.

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Not our focus/area of expertise.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Not our focus/area of expertise.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Not our focus/area of expertise.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Not our focus/area of expertise.

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Not our focus/area of expertise.

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Not our focus/area of expertise.

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Not our focus/area of expertise.

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Not our focus/area of expertise.

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Not our focus/area of expertise.

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Not our focus/area of expertise.

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Not our focus/area of expertise.

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Not our focus/area of expertise.

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Not our focus/area of expertise.

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Not our focus/area of expertise.

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

Not our focus/area of expertise.

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Not our focus/area of expertise.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

Not our focus/area of expertise.

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Not our focus/area of expertise.

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Not our focus/area of expertise.

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Not our focus/area of expertise.

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Not our focus/area of expertise.

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Not our focus/area of expertise.

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Not our focus/area of expertise.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Not our focus/area of expertise.

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Not our focus/area of expertise.

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Not our focus/area of expertise.

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Not our focus/area of expertise.

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Not our focus/area of expertise.

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Not our focus/area of expertise.

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Not our focus/area of expertise.

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Not our focus/area of expertise.

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Not our focus/area of expertise.

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Not our focus/area of expertise.

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Not our focus/area of expertise.

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

As two leading UK bodies for translation and interpreting, the Chartered Institute of Linguists and the Institute of Translation and Interpreting welcome the Welsh Government's invitation to contribute to your consultation on A New Tribunal System for Wales.

1) The Success of Language Policy in Wales - The success of measures to generate greater use and engagement with the Welsh language is one of the most significant linguistic achievements of modern times. Anything which sustains and further embeds bilingualism and indeed multilingualism is to be welcomed, given the intrinsic cultural value of languages and their utility in all manner of working and life contexts. The Welsh Government deserves full credit for its innovative and impactful support for Welsh language services. Welsh Universities and schools also continue to be a beacon in the UK in terms of their advocacy for the value of languages.

2) The importance of other languages - Our one observation would be that Question 41 and 42 focus exclusively on Welsh and English and do not mention the many other languages spoken in community settings in Wales.

Securing justice and protecting vulnerable groups through the provision of properly qualified, trained and experienced interpreters is something into which we have poured enormous efforts with the police and Ministry of Justice, but progress is never guaranteed. Hard won commitments to upholding requirements for qualifications, minimum levels of language proficiency and to professional standards can slip; either through policy change, inadequacies in procurement processes or through loopholes becoming normalised in the delivery against them.

3) Supporting people who don't have adequate Welsh or English - As part of your New Tribunal System for Wales we would urge you to commit not only to treating the Welsh language no less favourably than English, but to supporting other languages and to safeguarding other communities in Wales who do not have an adequate command of either Welsh or English. The Welsh Government's commitment to a more equal Wales, as set out in the Well-being of Future Generations (Wales) Act, would be strengthened by this action, and many disadvantaged people would be guaranteed access to fair, safe and equal treatment under the law through the professional support of a properly qualified interpreter with the necessary language skills.

The Chartered Institute of Linguists and The Institute of Translation and Interpreting

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

As part of your New Tribunal System for Wales we would urge you to commit not only to treating the Welsh language no less favourably than English, but to supporting other languages and to safeguarding other communities in Wales who do not have an adequate command of either Welsh or English. The Welsh Government's commitment to a more equal Wales, as set out in the Well-being of Future Generations (Wales) Act, would be strengthened by this action, and many disadvantaged people would

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

be guaranteed access to fair, safe and equal treatment under the law through the professional support of a properly qualified interpreter with the necessary language skills.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Nothing further to add.

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Chartered Institute of Linguists and Institute of Translation and Interpreting

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 017

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes.

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes.

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes.

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes.

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes.

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes.

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Provision (or lack of) Social Care and related care such as substance abuse support.

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes.

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes.

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Counsel General representing Welsh Government. Committee oversight should include Justice Trade Unions.

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No.

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

any oath would need to be to people of Wales, principles of natural Justice and a commitment to Justice even tho the sky may fall.

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes.

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

A Welsh Government sponsored body including Justice Trade Unions comprised of workers experienced in the delivery of Justice for Wales.

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

President of Welsh Tribunals.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No.

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes.

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes.

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes.

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes.

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes.

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes.

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes.

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. Independent individual appointed by Justice Trade Unions.

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes.

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes.

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes.

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes.

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. Bi-annual reviews by a Cross Party Senedd Justice Group.

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Positive.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Additional weight to Welsh proceeding and more involvement of language and speakers.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Devolution of Justice including the Tribunal system is a vital progressive step for both delivering justice but also efficiency for Justice workers.

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name Gethin Jones

Organisation (if applicable) Welsh Justice Unions Group

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 018

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

yes

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

yes

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

yes

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No view

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No view

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No view

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No Response

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No Response

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No Response

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

WG sponsored body for arms length

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

President of Welsh Tribunals

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

No strong view

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No Response

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes but specialisation should be preserved wherever possible

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes some form of Ombudsman

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

No Response

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No Response

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 019

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

No

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

No

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

No

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

No

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

No

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

No

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

No

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

No

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

No

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

No

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Do not think that this appropriate

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Disagreewith this devolve ment

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Not require

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Do not agree with extra statutory bidies

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

No

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

No

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Nono

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No do not agree with nill

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

No

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

No

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

No

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

No justice should not be devolved too costly waste of money

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Waste of money

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Waste of money

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Enough money has been wasted the Welsh government is not listening to it's people on numerous issues let's not waste any more until the economy is better placed

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name Angela Hopkin

Organisation (if applicable) -

Contact details -

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Respondent 020

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes, but we don't wish to lose the local involvement from head teachers, maintaining the local knowledge

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes, but again we don't wish to lose local expertise

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes, providing this process incorporates local expertise.

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No – do not agree. Needs to be retained. The process and current model works well, with local Head Teacher involvement and challenge, as well as the process of quality assuring those decisions across the region.

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes, this should continue at a local level.

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No – we currently feel that there are enough avenues of appeal open to parents / carers, such as JR.

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes, but with the exceptions shown in the questions above.

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes, but depends on the venue - provision for NW essential

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Yes

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes, over time.

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Unknown – further clarity required re this question

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes, which is fully independent

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

Do not agree statutory body

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

See above, should not be a political appointment.

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No further comment

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

No - needs to be a degree of separation

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

No - separation is required

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes we agree, but with a regional selection pool

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes, but with relevant knowledge and experience

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No – since they would need appropriate skills in each area.

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes, but with reference to the points previously made above

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes, but unsure who that body / person should be – external law firm perhaps?

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes - need to be aligned to current CPR

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes - need to be aligned to current CPR

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Yes

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes - anonymous user surveys at first instance then independent review

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Negative - not all workers are fluent in Welsh. ALN Welsh speaking Counsel are very limited
There are discrepancies between north and south Welsh language Also, this would limit senior judicial posts.
Would Welsh language essential delay matters/listings? Live translation services should / would need to be available

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

See above.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

N/A

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent 021

Q1. 1. Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Ydw

Q2. 2. Do you agree with the proposed structure of the unified tribunal system for Wales?

Ydw

Q3. 3. Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Ydw

Q4. 4. Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Ydw

Q5. 5. Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Ydw

Q6. 6. Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Ydw

Q7. 7. Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Ydw

Q8. 8. Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Dim ateb penodol

Q9. 9. Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Dim ateb penodol

Q10. 10. Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Dim barn i'w fynegu.

Q11. 11. Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Ydw, yn enwedig os defnyddir yr iaith Gymraeg.

Q12. 12. Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Dim barn i'w fynegu

Q13. 13. Do you agree there should be an Appeal Tribunal for Wales?

Ydw

Q14. 14. Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Ydw

Q15. 15. Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Ydw-

Q16. 16. Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

No Response

Q17. 17. Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

No Response

Q18. 18. Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

No Response

Q19. 19. Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No Response

Q20. 20. Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

No Response

Q21. 21. Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

No Response

Q22. 22. Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No Response

Q23. 23. Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No Response

Q24. 24. Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Ydw

Q25. 25. Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Ydw

Q26. 26. Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q27. 27. Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

No Response

Q28. 28. Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Ydw

Q29. 29. Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Gweler uchod

Q30. 30. Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No Response

Q31. 31. Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

No Response

Q32. 32. Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No Response

Q33. 33. Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No Response

Q34. 34. Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

No Response

Q35. 35. Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

No Response

Q36. 36. Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Ydw

Q37. 37. Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Ydw

Q38. 38. Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Ydw

Q39. 39. Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means;
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings.

Ydw

Q40. 40. Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Dim sylw

Q41. 41. We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Wrth lunio rheolau sy'n sicrhau statws yr iaith ac gwneud yn siwr fod aelodaeth y tribiwnlysoedd yn adlewyrchu'r gwahanol ardaloedd o fewn Cymru.
Fe ddylid penderfyni achosion Cymraeg yng Nghymru, pryd bynnag fo'n bosib.
Hefyd, gweler yr ymateb i 42 isod.

Q42. 42. Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Mae'n bwysig fod unrhyw berson sydd yn ymddangos gerbron llys nei dribiwnlys yn cael y cyfle i gynnig tystiolaeth neu i ateb cwestiynau drwy gyfrwng y Gymraeg. Mae hyn yn cyd-fynd gyda deddfau San Steffan o 1942 hyd 1993 a Mesur y Gymraeg (Cymru) 2011, ynghyd a chyfiawnder naturiol.

O fewn Gwasanaeth Llysoedd a Thribiwnlysoedd Ei Fawrhydi mae'r egwyddor hon wedi hen sefydlu (<https://www.gov.uk/government/news/providing-a-service-to-welsh-speakers>). Mae cyfieithu ar y pryd (o'r Gymraeg i'r Saesneg ac os oes angen o'r Saesneg i'r Gymraeg) ar gael ym mhob llys a thribiwnlys. Mae'r cyfieithu'n cael ei ddarparu gan banel penodol o aelodau Cymdeithas Cyfieithwyr Cymru sydd wedi llwyddo yn arholiadau Cyfieithu ar y Pryd, Cymraeg i Saesneg a Saesneg i Gymraeg, a hefyd efo profiad o gyfieithu ym myd y gyfraith. Mae'r broses o drefnu cyfieithu Cymraeg/Saesneg, Saesneg/Cymraeg yn cael ei weinyddu gan Uned Gwasanaethau Cymraeg, y Gwasanaeth Llysoedd a Thribiwnlysoedd yng Nghaernarfon. Yn ddiweddar (2022) fe gyhoeddodd yr Arglwydd Wolfson (Is-weinidog yn y Weinyddiaeth Gyfiawnder) adolygiad o'r gyfundrefn cyfieithu yn llysoedd a thribiwnlysoedd Cymru a Lloegr ond yn benodol fe hepgorodd y Gymraeg o'r adolygiad hwn gan adael y system bresennol fel y mae.

Mae Cymdeithas Cyfieithwyr Cymru yn credu y dylai unrhyw berson sy'n ymddangos ger bron tribiwnlys datganoledig yng Nghymru fod a'r un hawl i ateb cwestiynau neu i gynnig tystiolaeth drwy gyfrwng eu dewis iaith, ac na ddylai hyn arafu'r broses gweinyddol wrth drefnu'r achos, na'r trefniadau ymarferol ar y diwrnod. Dylai cyfieithu ar y pryd, o safon, fod ar gael a hynny wedi ei ddarparu gan banel o gyfieithwyr profiadol sydd wedi llwyddo yn arholiadau'r Gymdeithas. Yn ymarferol byddai defnyddio'r un panel a GLITEF yn sicrhau cysondeb a safon.

Bydd gweithredu cyfundrefn fel hyn, yn ddiodyn, gan gynnig yn rhagweithiol fod modd ateb cwestiynau neu gynnig tystiolaeth drwy gyfrwng yn Gymraeg yn:

- 1) Cynyddu'r cyfleodd i bobl ddefnyddio'r Gymraeg,
- 2) Yn rhoi statws i'r iaith Gymraeg yn unol â Mesur y Gymraeg (Cymru) 2011.

Yn sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg.

Q43. 43. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Q44. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name

Organisation (if applicable)

Contact details

-

Q45. If you want to receive a receipt of your response, please provide an email address.

Email address

Q46. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Respondent X003

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

The APW agrees that it is a devolved tribunal; it does not comment on other tribunals.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

The APW does not object. It would note though that confusion may arise with the name "First Tier Tribunal for Wales", which is very close to the "First Tier Tribunal for England and Wales".

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

The APW does not object.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

The APW does not object.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

The APW does not comment on other tribunals and judicial bodies.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No comment.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No comment.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No comment.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No comment.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

The APW does not object.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

The APW's jurisdiction arises from the Local Government Act 2000, an Act passed by Parliament and applicable to England and Wales. Further developments have arisen due to Regulations passed by the Senedd, but it is arguable as to how much the APW derives from Welsh law, particularly given the relevance of the Human Rights Act 1998 (an Act passed by Parliament) and principles of law from High Court decisions. The APW was set up specifically to deal with Wales, but it is not for the APW to comment further.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No comment

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

The APW does not object, but it considers its appeals should not be directed to such a body.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

The needs, workload, type of work and users served by the existing tribunals greatly vary. For example, the APW deals with public law and human rights issues in public hearings that can affect the implementation of decisions taken by the electorate in local government elections while the Education Tribunal for Wales sits in private considering the additional learning needs of individual children following a case raised by the family/carer against the affected local authority. The Education Tribunal for Wales is likely to be more informal in proceedings than the APW and may require appeals to be determined swiftly to ensure a child receives the support to which they are entitled; the decision of the APW may deprive thousands of voters of their chosen representative and deny those voters a representative for a period of time. Given the variation between the devolved tribunals, it is not obvious that the routes of appeal should be uniform. The APW cannot speak to the needs of other tribunal users, but it is of the view that the appropriate course of appeal is to the High Court for this jurisdiction due to the complexity of the matters considered and the need for it to be perceived to be reviewed at a higher level by a suitably qualified judge of sufficient standing to win respect and deal with the human rights issues.

If an uniform route must be adopted, could a hybrid scheme be devised for an Appeal Tribunal for Wales split into two sections – one from the Upper Tribunal

(cross ticketed) for those tribunals currently served in such a way and the other from the High Court for those where appeal lies in that direction? The needs of the tribunals and their users are too diverse to be put into one uniform group.

The APW remains of the view that appeals from it should remain with the Administrative Court (High Court). It is not aware of any user or interested party who seeks another route of appeal other than the High Court.

The Tribunal has to weigh the protected right of freedom of expression (which is enhanced for expressions of political views) against the Code of Conduct. Its decisions are published and referred to when such matters are dealt with elsewhere. Its appeals to the High Court are seminal and are relied upon across the England and Wales jurisdiction.

In addition, Wales is a relatively small country and there is a risk that if those who sit in the Appeal Tribunal for Wales are known to those involved in such proceedings, it exposes them to the unfounded criticisms levelled at the APW (assertions of conspiracy, being henchmen/henchwomen of a particular political party). The respect commanded by the High Court, which has created the Administrative Court for Wales, is high and ensures that those who appeal have confidence in its independence when they may not have such confidence in the APW. The weight placed on such appeal decisions is enhanced. It is also unclear how the Appeal Tribunal for Wales would provide specialist judges able to deal with complex matters involving human rights – it is a small field, but one well served by the expertise of the High Court.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

The APW does not consider its appeals should go to such an entity and therefore has no comment to make, other than any appeal body dealing with its work should comprise of suitably qualified and trained judges who are seen as independent and command the same respect as the High Court.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

The APW has noted that a previous Counsel General had to issue a statement explaining the independence of the APW and the need for elected members and those in government to respect judicial independence. This was welcome. It would seem appropriate for the First Minister, the Welsh Ministers and the Counsel General to be required to uphold judicial independence, as well as judges themselves. With regard to members of the Senedd, there has been one case of a member seeking to attack the APW, making baseless claims, but they were in fact facing APW proceedings at the time and using their Senedd platform for their own purposes. Their conduct triggered the statement by the Counsel General referred to above. It may be appropriate to ask the Senedd Commission to consider this point further.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes and this is standard practice in the APW.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

The proposed formulation is acceptable, but an oath or affirmation of allegiance is generally made first. Does the Welsh Government propose not to require such an oath or affirmation in conjunction with the judicial oath?

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

Provided it is wholly independent of Welsh Government, the APW has no further comment. It will though need to be adequately resourced.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

No comment as this appears to be a matter of policy.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No comment

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- b) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

The APW is neutral, but would point out terms and conditions of service can be made so unattractive, no-one will serve. Should not the PWT be given a role, or consulted, about terms and conditions?

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes – it strengthens our offering and makes the Welsh jurisdiction more attractive to quality candidates.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

The APW agrees with the white paper – the Lord Chancellor should not appoint any judge in a devolved jurisdiction.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes, but is it appropriate for an English/reserved body such as the JCIO to deal with devolved tribunals? If Wales is to have its own justice system, it should consider setting up its own entities to serve it.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Broadly yes, but Rules should not be imposed on a Tribunal in the face of a veto from its judicial lead, who is best placed to consider the needs of their tribunal. The Rules are likely to have to only deal with very general issues as the tribunals differ greatly e.g. the Mental Health Review Tribunal for Wales is a private jurisdiction where one party is applying against another, while the APW is dealing with public law and adjudicates on breach of a Code of Conduct.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

See answer to question 37 above. There is scope for general rules e.g. on service, restricted reporting orders, but each tribunal has differing needs.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

The APW does not object.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

The APW will not comment. It is bi-lingual.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

No comment

Question 43

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

Your name:

Claire Sharp

Organisation (if applicable):

President of the Adjudication Panel for Wales

Contact details:

Respondent X004

Hyd a lled ein diwygiadau

Cwestiwn 1

Ydych chi'n cytuno â'r hyn rydym wedi'i nodi fel tribiwnlysoedd datganoledig ym mharagraff 22?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Strwythur newydd i system dribiwnlysoedd Cymru

Cwestiwn 2

Ydych chi'n cytuno â'r strwythur a gynigir ar gyfer y system dribiwnlysoedd unedig i Gymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 3

Ydych chi'n cytuno â'r strwythur a gynigir ar gyfer aelodaeth y tribiwnlysoedd yn y system dribiwnlysoedd unedig?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Awdurdodaethau sy'n trosglwyddo i'r system dribiwnlysoedd

Cwestiwn 4

Ydych chi'n cytuno y dylid trosglwyddo awdurdodaethau Tribiwnlysoedd Cymru i Dribiwnlys Haen Gyntaf Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 5

Ydych chi'n cytuno y dylid, mewn egwyddor, trosglwyddo awdurdodaeth Tribiwnlys Prisio Cymru i Dribiwnlys Haen Gyntaf Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 6

Ydych chi'n cytuno, os na fydd awdurdodaeth Tribiwnlys Prisio Cymru yn cael ei throsglwyddo i Dribiwnlys Haen Gyntaf Cymru, y dylai ddal i fod yn destun goruchwyliaeth Llywydd Tribiwnlysoedd Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 7

Ydych chi'n cytuno y dylid trosglwyddo awdurdodaeth paneli apêl gwaharddiadau o ysgolion i Dribiwnlys Haen Gyntaf Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 8

Ydych chi'n cytuno y dylai awdurdodaeth paneli apêl derbyniadau i ysgolion barhau i gael ei gweinyddu gan awdurdodau derbyn am y tro?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 9

Ydych chi'n cytuno y dylai apeliadau o baneli apêl derbyniadau i ysgolion fod ar gael ar bwynt cyfreithiol i Dribiwnlys Haen Gyntaf Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 10

Ydych chi'n cytuno â'r strwythur siambr cychwynnol yr ydym yn ei gynnig ar gyfer Tribiwnlys Haen Gyntaf Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 11

Ydych chi'n cytuno, fel egwyddor arweiniol, y dylid gwranddo ar anghydfodau sy'n deillio o gyfraith Cymru mewn sefydliad barnwrol yng Nghymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 12

A oes unrhyw fathau penodol o anghydfod o dan gyfraith ddatganoledig sydd, yn eich barn chi, yn arbennig o addas i gael eu datrys gan driwlynlys?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 13

Ydych chi'n cytuno y dylid cael Tribiwnlys Apêl i Gymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 14

Ydych chi'n cytuno mai Tribiwnlys Apêl Cymru ddylai fod y corff apeliadol ar gyfer apeliadau o Dribiwnlys Haen Gyntaf Cymru oni bai fod rhesymau eithriadol sy'n mynnu bod darpariaeth wahanol yn cael ei gwneud?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 15

Ydych chi'n cytuno y dylid trosglwyddo awdurdodaethau i Dribiwnlys Apêl Cymru dros amser ac y dylid eu trefnu'n siambrau drwy is-ddeddfwriaeth a wneir gan Weinidogion Cymru gyda chydsyniad Llywydd Tribiwnlysoedd Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Annibyniaeth

Cwestiwn 16

Ydych chi'n cytuno y dylai'r ddyletswydd statudol arfaethedig i gynnal annibyniaeth farnwrol fod yn berthnasol i bawb sy'n gyfrifol am weinyddu cyfiawnder fel y mae hynny'n berthnasol i'r system dribiwnlysoedd ddiwygiedig yng Nghymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 17

Pwy, yn eich barn chi, y dylid eu cynnwys ar y rhestr o'r rhai sy'n gyfrifol am weinyddu cyfiawnder fel y mae'n berthnasol i'r system dribiwnlysoedd ddiwygiedig yng Nghymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 18

A oes angen i holl aelodau Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru dyngu llw neu gadarnhad o'u hymrwymiad i gynnal annibyniaeth farnwrol?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 19

A oes gennych farn ar ffurf arfaethedig y llw neu'r cadarnhad, os caiff un ei fabwysiadu?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 20

Ydych chi'n cytuno â chreu corff statudol hyd braich oddi wrth Lywodraeth Cymru i fod yn gyfrifol am weinyddu'r system dribiwnlysoedd newydd yng Nghymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 21

Ydych chi'n credu y dylai'r corff statudol arfaethedig gael ei gyfansoddi fel Corff a Noddir gan Lywodraeth Cymru, fel Adran Anweinidogol, neu fel rhywbeth arall? Pam?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 22

Yn eich barn chi, a ddylai Cadeirydd Bwrdd y corff statudol fod yn benodiad gan Weinidogion Cymru, neu a ddylai Llywydd Tribiwnlysoedd Cymru fod yn Gadeirydd yn rhinwedd ei swydd?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 23

Oes gennych chi unrhyw sylwadau eraill am y trefniadau ar gyfer gweinyddu'r system driwlysoedd newydd yn Nhabl 1?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Llywydd Tribiwnlysoedd Cymru

Cwestiwn 24

Ydych chi'n cytuno y dylai Llywydd Tribiwnlysoedd Cymru fod yn farnwr llywyddol Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru, gan allu eistedd fel barnwr yn y tribiwnlysoedd hynny?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 25

Ydych chi'n cytuno â'n cynigion i ychwanegu at swydd Llywydd Tribiwnlysoedd Cymru drwy gyflwyno dyletswyddau, swyddogaethau a phwerau statudol i'r swydd, fel y nodir yn y Papur Gwyn hwn?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Penodi a neilltuo

Cwestiwn 26

Ydych chi'n cytuno â'n hegwyddorion arweiniol ar gyfer penodi aelodau Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 27

Ydych chi'n cytuno â'n cynigion ar gyfer awdurdod penodi aelodau'r tribiwnlysoedd newydd:

- c) ac eithrio Llywyddion a Dirprwy Lywyddion Siambrau, bydd aelodau Tribiwnlys Haen Gyntaf Cymru yn cael eu penodi gan Lywydd Tribiwnlysoedd Cymru
- d) bydd Llywyddion a Dirprwy Lywyddion Siambrau Tribiwnlys Haen Gyntaf Cymru ac aelodau o Dribiwnlys Apêl Cymru yn cael eu penodi gan Weinidogion Cymru, gyda chydysyniad Llywydd Tribiwnlysoedd Cymru.

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 28

Ydych chi'n cytuno y dylai fod yn ofynnol i Lywydd Tribiwnlysoedd Cymru a Gweinidogion Cymru, wrth wneud penodiadau i Dribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru, roi sylw i'r angen i hybu amrywiaeth yn yr ystod o unigolion a benodir?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 29

Ydych chi'n cytuno y dylai fod yn ofynnol i Lywydd Tribiwnlysoedd Cymru a Gweinidogion Cymru, wrth wneud penodiadau i Dribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru, roi sylw i'r angen i hybu amrywiaeth yn yr ystod o unigolion a benodir?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 30

Ydych chi'n cytuno y dylai Gweinidogion Cymru osod telerau ac amodau penodi ar gyfer aelodau o'r gwasanaeth tribiwnlysoedd newydd?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 31

Ydych chi'n cytuno y dylid parhau â system o drawsneilltuo ar gyfer aelodau barnwrol, cyfreithiol a chyffredinol yn y system dribiwnlysoedd newydd?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 32

Ydych chi'n meddwl y dylai'r prosesau penodi ar gyfer Llywydd Tribiwnlysoedd Cymru gael eu newid mewn unrhyw ffordd fel rhan o'r diwygiadau arfaethedig a nodir yn y papur gwyn?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwynion a disgyblu

Cwestiwn 33

Ydych chi'n cytuno â'n cynigion ar gyfer rheoli cwynion a gwneud penderfyniadau disgyblu ynghylch aelodau Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 34

Ydych chi'n cytuno â'r rôl ymchwilio arfaethedig i gorff neu berson annibynnol? Pwy ddylai'r corff neu'r person fod yn eich barn chi?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 35

Ydych chi'n cytuno â'n cynigion ar gyfer rheoli cwynion am weinyddiaeth y system dribiwnlysoedd newydd?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Rheolau gweithdrefnol

Cwestiwn 36

Ydych chi'n cytuno y dylid creu pwyllgor statudol sy'n gyfrifol am ddatblygu Rheolau Gweithdrefnau Tribiwnlysoedd, fel y nodir ym mharagraffau 173-177 ac yn Nhabl 4?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 37

Ydych chi'n cytuno y dylid creu pwyllgor statudol sy'n gyfrifol am ddatblygu Rheolau Gweithdrefnau Tribiwnlysoedd, fel y nodir ym mharagraffau 173-177 ac yn Nhabl 4?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 38

Ydych chi'n cytuno y dylai'r Pwyllgor Rheolau Gweithdrefnau Tribiwnlysoedd ddatblygu rheolau gweithdrefnol cyffredin ar draws y system driwiwnlysoedd newydd, gan gydnabod a darparu ar gyfer nodweddion unigryw pob awdurdodaeth?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Cwestiwn 39

Ydych chi'n cytuno â'n cynnig y dylai Rheolau Gweithdrefnau Tribiwnlysoedd Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru gynnwys y materion canlynol:

- f) prif amcan
- g) dyletswydd ar y partïon i gydweithredu â'i gilydd ac â'r triwiwnlys
- h) darparu ar gyfer cyflwyno dogfennau drwy ddulliau electronig

- i) pŵer i'r Tribiwnlys Haen Gyntaf adolygu ei benderfyniadau ei hun
- j) rheolau ar wrandawiadau o bell.

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Dod â chyfiawnder yn nes at bobl Cymru

Cwestiwn 40

Ydych chi'n cytuno y dylid parhau i adolygu gweithrediad cyfiawnder sifil a gweinyddol yng Nghymru? Os felly, sut dylid gwneud hyn?

Nid yw Cymdeithas Cyfieithwyr Cymru am fynegi safbwynt ar y cwestiwn yma.

Y Gymraeg

Cwestiwn 41

Hoffem wybod eich barn am yr effeithiau y byddai'r diwygiadau yr ydym yn eu cynnig ar gyfer tribiwnlysoedd datganoledig yng Nghymru, er mwyn creu system dribiwnlysoedd unedig a chydlynol sy'n cynnwys Tribiwnlys Haen Gyntaf Cymru a Thribiwnlys Apêl Cymru, yn eu cael ar yr iaith Gymraeg, ac yn benodol:

- c) ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac
- d) ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.

Beth fyddai'r effeithiau, yn eich barn chi? Sut gellid cynyddu'r effeithiau cadarnhaol, neu leihau'r effeithiau negyddol?

Mae creu system apêl yng Nghymru ar gyfer yr haen gyntaf yn gam positif ac yn rhoi arwyddion cadarnhaol i siaradwyr Cymraeg bod modd defnyddio'r iaith trwy'r system dribiwnlys. Mae profiad y Gwasanaeth Llysoedd a Thribiwnlysoedd o geisio rhestru achosion adolygiadau barnwrol neu o'r llys apêl yng Nghymru pan fo gwraidd yr achos yn gysylltiedig gyda'r iaith neu Gymru yn dangos y pwysigrwydd o gadw trefniadau fel hyn o fewn ffiniau Cymru.

Mae'n bwysig fod unrhyw berson sydd yn ymddangos gerbron llys nei dribiwnlys yn cael y cyfle i gynnig tystiolaeth neu i ateb cwestiynau drwy gyfrwng y Gymraeg. Mae hyn yn cyd-fynd gyda deddfau San Steffan o 1942 hyd 1993 a Mesur y Gymraeg (Cymru) 2011, ynghyd a chyfiawnder naturiol.

O fewn Gwasanaeth Llysoedd a Thribiwnlysoedd Ei Fawrhydi mae'r egwyddor hon wedi hen sefydlu (<https://www.gov.uk/government/news/providing-a-service-to-welsh-speakers>). Mae cyfieithu ar y pryd (o'r Gymraeg i'r Saesneg ac os oes angen o'r Saesneg i'r Gymraeg) ar gael ym mhob llys a thribiwnlys. Mae'r cyfieithu'n cael ei ddarparu gan banel penodol o aelodau Cymdeithas Cyfieithwyr Cymru sydd wedi llwyddo yn arholiadau Cyfieithu ar y Pryd, Cymraeg i Saesneg a Saesneg i Gymraeg, a hefyd efo profiad o gyfieithu ym myd y gyfraith. Mae'r broses o drefnu cyfieithu Cymraeg/Saesneg, Saesneg/Cymraeg yn cael ei weinyddu gan Uned Gwasanaethau Cymraeg, y Gwasanaeth Llysoedd a Thribiwnlysoedd yng Nghaernarfon. Yn ddiweddar (2022) fe gyhoeddodd yr Arglwydd Wolfson (Is-weinidog yn y Weinyddiaeth Gyfiawnder) adolygiad o'r gyfundrefn cyfieithu yn llysoedd a thribiwnlysoedd Cymru a Lloegr ond yn benodol fe hepgorodd y Gymraeg o'r adolygiad hwn gan adael y system bresennol fel y mae.

Mae Cymdeithas Cyfieithwyr Cymru yn credu y dylai unrhyw berson sy'n ymddangos ger bron tribiwnlys datganoledig yng Nghymru fod a'r un hawl i ateb cwestiynau neu i gynnig tystiolaeth drwy gyfrwng eu dewis iaith, ac na ddylai hyn arafu'r broses gweinyddol wrth drefnu'r achos, na'r trefniadau ymarferol ar y diwrnod. Dylai cyfieithu ar y pryd, o safon, fod ar gael a hynny wedi ei ddarparu gan banel o gyfieithwyr profiadol sydd wedi llwyddo yn arholiadau'r Gymdeithas. Yn ymarferol byddai defnyddio'r un panel a GLITEF yn sicrhau cysondeb a safon.

Bydd gweithredu cyfundrefn fel hyn, yn ddiodyn, gan gynnig yn rhagweithiol fod modd ateb cwestiynau neu gynnig tystiolaeth drwy gyfrwng yn Gymraeg yn:

- 1) Cynyddu'r cyfleodd i bobl ddefnyddio'r Gymraeg,**
- 2) Yn rhoi statws i'r iaith Gymraeg yn unol â Mesur y Gymraeg (Cymru) 2011.**
- 3) Yn sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg.**

Cwestiwn 42

Eglurwch hefyd sut rydych chi'n credu y gellid llunio neu newid y diwygiadau arfaethedig er mwyn cael:

- c) effeithiau cadarnhaol neu fwy o effeithiau cadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg, a**
- d) dim effeithiau niweidiol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.**

Byddai sicrhau fod cynnig rhagweithiol yn cael ei gwneud i bob person fydd yn ymddangos mewn Tribiwnlys Datganoledig, fod modd siarad Cymraeg neu gael cyfieithiad i'r Gymraeg, yn cynyddu'r siawns y byddai rhywun am ddefnyddio'r iaith mewn amgylchedd cyfreithiol. Byddai tanlinellu na fyddai effaith negyddol o safbwynt defnyddio'r iaith (boed hynny o ran amseru neu o ran canfyddiad) hefyd yn cynyddu'r tebygrwydd fod rhywun yn defnyddio'r iaith. Yn wir dylid gwneud yn glir fod defnydd o'r iaith yn cael ei groesawu a bod yr iaith yn cael ei defnyddio'n helaeth o fewn Gwasanaeth Llysoedd a Thribiwnlysoedd Ei Fawrhydi. Byddai fideo yn dangos sut mae dwy iaith Cymru yn cyd-blethu o fewn y gyfundrefn cyfiawnder yn helpu i wneud pobl deimlo'n fwy cysurus yn defnyddio'r Gymraeg.

Byddai'n dda sicrhau hyfforddiant i gadeiryddion tribiwnlysoedd ar y defnydd o'r Gymraeg, ac yn bendant byddai cyfle i weld/clywed sut mae Cyfieithu ar y Pryd yn gweithio'n ymarferol CYN bod ei angen arnynt hefyd yn arwain ar brofiad mwy esmwyth i bob parti.

Cwestiwn 43

Rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych chi unrhyw faterion cysylltiedig sydd heb gael eu trafod yn benodol, mae croeso i chi ddefnyddio'r lle hwn i'w nodi:

Enw:

Sefydliad (os yw'n berthnasol):

Cymdeithas Cyfieithwyr Cymru

Manylion cyswllt:

Respondent X006

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

I agree with the paragraph 37(a), namely a First-Tier Tribunal for Wales and It agree with 37(b), the proposed Appeal Tribunal for Wales, provided its remit does not extend to MHRTW.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes, although further clarification is required in respect of the Appeal Tribunal for Wales, specifically in relation to composition and the duty to consult. I am concerned that the 'tribunal users' to whom this refers are by definition extremely unwell and may feel pressurised to engage with the consultation process.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

I have no view on this.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

I have no view on this.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

I have no view on this.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

I have no view on this.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

I have no view on this.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

In principle, yes, but as the MHRTW operates under UK law, not Welsh, the route of appeal from this tribunal must be the same as the FTT(MH) as appeals from both jurisdictions are mutually binding. The status quo is a legal and practical imperative.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

I have no view on this.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes, for tribunals administering Welsh law, but not MHRTW for the reasons given in response to Q11.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

MHRTW requires different provision for the reasons set out above. The vast majority of appeals derive from HESC (MH). We remain bound by judgements of the Upper Tribunal. A significant proportion of patients detained in Wales are normally resident in England, who will be discharged to England. Any discrepancy between provision could lead to Human Rights claims against the Welsh Government. It is also unclear what the route would be following determination of appeals by the Appeal Tribunal for Wales.

I do not consider that the 'attractiveness of roles' is a relevant consideration when judged against patients' rights and clarity of decisions.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Members of the Senedd.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

MHRTW has operated without oath or affirmation, unlike HESC. However, if such an oath or affirmation would assist with members' ability to cross-ticket to HMCTS, this would be of benefit.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

The oath or affirmation should be the same formulation applicable in HMCTS.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

This should be constituted as a non-ministerial department in accordance with the recommendations of the Law Commission and the Thomas Report, which followed detailed consideration of the matter.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

It should be the President of Welsh Tribunals ex officio.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

I have no views on this.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- e) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- f) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes, provided this does not hinder members' ability to cross-ticket to other jurisdictions.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Appointments made by the JAC are already subject to an assessment of diversity, which should be considered alongside any requirements of the President and Welsh Ministers to avoid divergence.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

The criteria must be the same as comparative jurisdictions. Should the criteria differ, the ability to cross-ticket will be compromised. The method of selection has not been specified.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

The terms and conditions of appointment should be the same as comparative jurisdictions to preserve members' ability to cross-ticket.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

There is not currently a system of cross-ticketing available to non-legal members. There should be an extension to include all members.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Appointments should retain parity with other senior judges to ensure credibility within the judiciary.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

The JCIO has no current involvement in complaints relating to MHRTW, but I support this proposal.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes, it should be the JCIO.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

I consider this to proposal to be an overly elaborate means of updating procedural rules. In practice, the TPC would only be dealing with provision of service of documents and rules on remote hearings (para 189 (c) and (e)). The remaining matters (para 189 (a), (b) and (d)) remain relatively static. As such, I would consider that there would only be a necessity for the TPC to meet as and when required.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No. Please see my response to Q 36 above.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Please see my response to Q 36 and Q37 above.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

I would support the President of Welsh Tribunals in introducing changes to current Rules and retaining this power in the event that a TPC is introduced.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes, by the Law Council of Wales, chaired by Lord Lloyd-Jones, to ensure the inclusion of a wide source of participants, including academics.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising

of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

I have no reason to consider that there will be any difference given that the opportunity for people to use Welsh is already actively encouraged within MHRTW and there is no suggestion that the Welsh language is treated any less favourably than English.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Please see my response to Q 41 above.

Question 43

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

Your name:

Carolyn Kirby, OBE.

Organisation (if applicable):

President of the Mental Health Review Tribunal for Wales.

Contact details:

Respondent X008

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Agree (in principle) - They are all decision-making bodies that adjudicate disputes between parties by way of issuing binding determinations. However, those bodies that are not 'Welsh Tribunals', as defined by Section 59 of the Wales Act 2017, have no legal or expert members; these members require guidance from staff on legal and procedural issues. In addition, these other bodies are administered in wholly different ways and require unique consideration in comparison with the 'Welsh Tribunals'.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Agree (in principle) – The proposed structure of the unified tribunal system for Wales comprising a new First-tier Tribunal for Wales (the tribunal of first instance) and an Appeal Tribunal for Wales (the appeal tribunal to hear appeals from the First-tier Tribunal for Wales) is appropriate to accommodate the jurisdictions of the existing 'Welsh Tribunals'. It would be sensible for this initial chamber structure to be created on the face of the Bill. The envisaged flexibility to enable the creation of new chambers, the addition of new jurisdictions and the transfer of jurisdictions between chambers, via subordinate legislation made by Welsh Ministers following appropriate consultation, should feature from the outset and will facilitate the accommodation of additional existing jurisdictions, as and when they become suitable to be taken into the unified structure, and new jurisdictions when they are created.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Agree (in principle) – The structure for tribunal membership in both the First-tier Tribunal and Appeal Tribunal for Wales, with a chamber President (and Deputy, where appropriate in the First-tier Tribunal), together with legal and expert members should work well and be relatively easy to establish in respect of the existing jurisdictions of the 'Welsh Tribunals'. The subdivision of these Tribunals into chambers would appear to meet the general tribunal characteristic, amongst

others, of providing specialist knowledge within a narrow jurisdiction. However, the proposed structure does not reflect the current structure of those tribunals/panels that are not defined by Section 59 of the Wales Act. The White Paper acknowledges the anomalous situation regarding members of the Valuation Tribunal for Wales (VTW) and the School Admission and School Exclusion Appeal Panels.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Agree - It appears that existing consistencies with regard to membership, administration and organisation within Welsh Tribunals listed within Section 59 of the Wales Act would allow them to be transferred to the First-tier Tribunal for Wales with relatively little disruption, provided the amalgamation is well-managed. They are already administered by the Welsh Tribunals Unit and are judicially guided and overseen by the President of Welsh Tribunals.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Agree (in principle) – However, the jurisdiction of the Valuation Tribunal for Wales (VTW) should not be transferred into the First-tier Tribunal before major changes are made to align it with the other ‘Welsh Tribunals’. The White Paper itself acknowledges that the VTW operates differently from other tribunals in Wales and possesses a unique member appointment process and system of governance (paragraph 56 of the White Paper). The VTW has its own independent administration, which provides bespoke clerical and IT support, and its staff is also employed on different terms and conditions to the existing administrative support for the ‘Welsh Tribunals’. Its membership is lay and is provided with legal support by clerks with specialist knowledge. The membership is also unpaid; this key reality will suddenly become obvious in any merged structure when members sitting in the other proposed chambers of a single First-tier Tribunal are paid fees to hear their cases. Assimilation into a unified structure is realistically only a longer-term aim.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Agree - The Valuation Tribunal for Wales (VTW) should be subject to the supervision of the President of Welsh Tribunals if it initially stays outside the unified tribunal structure. This supervision should increase its cohesion with the broader devolved tribunal system and the VTW would benefit from being more closely associated with the First-tier Tribunal for Wales. This closer link could assist in gradual changes to the VTW's existing appeal regimes, membership and staff structures (including staff responsibility for the provision of expert advice to members) and could eventually lead to its jurisdiction being better suited to being brought within the First-tier Tribunal.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Disagree – As proposed in respect of the School Admission Appeal Panels, this jurisdiction should remain outside the First-tier Tribunal, although there should be an unrestricted right of appeal from School Exclusion Appeal Panels to the First-tier Tribunal (Education chamber). Notwithstanding this reservation, it is acknowledged that there is a more compelling case for this jurisdiction to transfer into the First-tier Tribunal in comparison with the jurisdiction of the School Admission Appeal Panels.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Agree – The practical issues identified within the White Paper, including seasonal peaks in case load, appear to justify retention of this jurisdiction with the admission authorities.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Agree – The right of appeal, on a point of law, against decisions of School Admission Appeal Panels to the First-tier Tribunal for Wales would strengthen the independence of the decisionmaking process.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Agree (in principle) – The creation of the proposed initial chamber structure on the face of the Bill appears to be appropriate, together with the proposals to maintain flexibility to allow the future creation of new chambers or make changes to existing chambers via subordinate legislation (made by Welsh Ministers, following appropriate consultation). These chambers within the First-tier Tribunal will cater for the existing jurisdictions of the ‘Welsh Tribunals’ listed in section 59 of the Wales Act. Although no jurisdiction has yet been identified, it also seems sensible to create a General Regulatory Chamber from the outset in preparation for it to absorb jurisdictions as they become evident.

The Taxation chamber should be established from the outset and the Valuation Tribunal for Wales’ (VTW) jurisdiction and that in respect of appeals arising from land transaction tax and landfill disposals tax could be transferred to this chamber at an appropriate time. However, it would appear to be incongruous to transfer the VTW’s jurisdiction into the First-tier Tribunal whilst so many differences exist between its structure and operation compared with those of the other ‘Welsh Tribunals’. The jurisdiction in respect of School Exclusion Appeal Panels should remain outside the Education Chamber, as referred to earlier in this response.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Agree – As a general principle, disputes deriving from Welsh legislation should be heard by a Welsh judicial body provided that body has members with suitable expertise and experience.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

None, with the exception of those appeals arising from land transaction tax and landfill disposals tax that have already been identified within the White Paper.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Agree (in principle) – It appears sensible to create an Appeal Tribunal for Wales, that will be the appellate body for appeals arising from decisions of the First-tier Tribunal for Wales, as part of the aim to establish a coherent Welsh judicial system that is simple and intuitive. However, the Appeal Tribunal for Wales should not take on jurisdictions where the judiciary lacks confidence that it may not have the relevant expertise or experience. Appeals from the First-tier Tribunal may initially be better served by the expertise and specialisation of judges hearing significant numbers of similar appeals within the broader system of reserved tribunals in England and Wales.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Agree – The Appeal Tribunal for Wales should be the default appellate body for appeals from the First-tier Tribunal unless there are exceptional circumstances as outlined in the response to the previous question.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Agree – The phased transfer of jurisdictions to the Appeal Tribunal for Wales at the appropriate time and when arrangements have been secured to ensure that the allocated chamber has the appropriate expert resources to deal with that type of appeal is a sensible proposal. The Appeal Tribunal for Wales should be organised into chambers and these should be created by subordinate legislation made by Welsh Ministers following consultation with the President of Welsh Tribunals and senior members of the First-tier Tribunal judiciary.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Agree – In order to maintain confidence in the reformed justice system in Wales, there needs to be a statutory duty to uphold judicial independence imposed upon all those with responsibility for the administration of justice.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

The statutory duty to uphold judicial independence should be restricted to those with direct responsibility for the administration of justice as it applies to the reformed tribunal system and its members. It should extend to the First Minister, Welsh Ministers and the Counsel General but not to Welsh Assembly Members in general.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

As a constituent part of the judiciary, all members of the First-tier Tribunal and the Appeal Tribunal for Wales should be required to take the judicial oath/affirmation.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

The suggested modern wording of the judicial oath/affirmation contained within paragraph 94 of the White Paper appears to be appropriate.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Agree – The creation of the statutory body, 'Tribunals Wales', strengthens the independence of the administration of the new tribunals system in Wales and distances it from Welsh Government. This organisational separation is a necessary component in establishing a truly independent tribunal system for Wales in the eyes of its users. The organisation, from a judicial and administrative standpoint, will be in much better position in making its claim that it is not under the influence of any other organisation.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

The creation of a Welsh Government Sponsored body would appear to provide a greater perception of independence from Welsh Government itself. Staff conditions of service could be aligned with those of the Civil Service, but they would not in effect be Civil Servants. This would offer protection to existing members of staff of the Welsh Tribunals Unit that transferred to Tribunals Wales, whilst further serving to increase the perception of judicial independence.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

The Chair of the Board of the statutory body should be the President of Welsh Tribunals ex officio and would appear to provide the body with greater independence from Welsh Government, which is responsible for policy and legislation.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

The arrangements listed appear to be comprehensive and cover everything in relation to the administration of the new tribunal system.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Agree – This is a sensible approach and ensures that the President of Welsh Tribunals continues to have a day-to-day understanding and appreciation of the jurisdictions for which they have overall responsibility.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Agree – The proposals to confer statutory duties, functions and powers on the office appear to enhance the office of President of Welsh Tribunals and again would ensure that a holistic approach is adopted by the judicial lead of the new tribunal system in Wales.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Agree – The guiding principles for the appointment of members will protect the independence of the new tribunal system and ensure fairness, consistency, clarity and transparency of the appointments process.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- g) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- h) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Agree – A consistent and transparent approach to the selection and appointment of members to the new tribunals is crucial. Judicial independence will be reinforced by the requirement that any appointment will require direct or indirect judicial involvement in the process. Members of the First-tier Tribunal should be appointed by the President and Chamber Presidents/Deputies of the First-tier Tribunal and members of the Appeal Tribunal should be appointed by Welsh Ministers with the agreement of the President of Welsh Tribunals.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Agree (in principle) – Advertisement of vacancies should be targeted to reach all potential candidates from as many diverse backgrounds as possible. However, appointments should always be on merit with the most suitable candidates for positions being those who are ultimately appointed.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Agree – Eligibility criteria for appointments to the tribunal system should always encourage applications from the widest and most diverse pool of suitable candidates and should seek to include as many potential candidates as possible.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Agree – The terms and conditions of appointment of members of the new tribunals should be determined by Welsh Ministers and regard should be had to harmonising these terms as far as is practicable across all jurisdictions.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Agree – Cross-deployment/cross-ticketing of appropriately qualified and experienced members between chambers of a tribunal on the same level will permit the most efficient and effective use of resource. This flexibility should require the approval of senior judicial members to ensure that the cross-deployment is appropriate.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

The President of Welsh Tribunals should be appointed by Welsh Ministers with the Lord Chief Justice of England and Wales being a consultee in the process.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Agree (in part) – For the First-tier Tribunal, it is appropriate that the chamber Presidents should be responsible for investigating complaints about legal and non-legal members of their chamber. Further consideration will be needed as to how to deal with complaints against a member who has been cross-deployed i.e. does the chamber President investigate the complaint in respect of one of their members where the complaint regarding conduct has arisen whilst that member has been sitting as a member in a different chamber.

Upon receipt of an investigator's report and recommendations, it is appropriate that the President of Welsh Tribunals is responsible for the discipline and/or dismissal of that member, with the dismissal of chamber Presidents or Deputies requiring the agreement of Welsh Ministers.

For the Appeal Tribunal for Wales, it is considered that there is no reason why the President of Welsh Tribunals should not conduct the investigation and make recommendations regarding the discipline and/or dismissal of that member and that the decision on further action should lie with Welsh Ministers.

Further consideration will need to be given regarding the mechanism for dealing with complaints against the President of Welsh Tribunals. However, Welsh Ministers could be responsible for the investigation and recommendations regarding disciplinary action and/or dismissal, following consultation with the Lord Chief Justice of England and Wales; essentially the same mechanism that has been proposed for the appointment of the President. However, dismissal would require the additional agreement of the First Minister.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Disagree - As referred to in the response to the previous question, the President of Welsh Tribunals could perform the investigatory role and make recommendations for disciplinary action in respect of members of the Appeal Tribunal for Wales. Welsh Ministers would then be responsible for determining the appropriate disciplinary action.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Agree – Administrative complaints about the new tribunals system should in the first instance be dealt with by ‘Tribunals Wales’. The Public Service Ombudsman for Wales should be the method of further redress should the complainant be dissatisfied with the response that they have received from ‘Tribunals Wales’. As stated in the White Paper, the Ombudsman’s role should be restricted to complaints of an administrative nature and not extend to judicial complaints.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Agree – The creation of a statutory committee with the responsibility for developing Tribunal Procedure Rules will provide scope for greater consistency and harmonisation of the adopted procedures. The Committee should be able to accommodate the unique characteristics and needs of individual chambers and jurisdictions provided its membership is drawn from a wide jurisdictional background. The President of Welsh Tribunals should be responsible for chairing the Tribunal Procedure Committee for Wales and appointing its members.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Agree in part - The Tribunal Procedure Rules of the devolved tribunals should be made by the President of Welsh Tribunals, in a form agreed by a majority of the Tribunal Procedure Committee for Wales, and subject to being approved by the Welsh Ministers. Statutory provision for this procedure should be enough without the need for the rules to be enshrined within statutory instrument, which will only serve to delay implementation and changes to these rules. The rules should be able to be changed as soon as practicable and be dynamic in response to external change.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Agree – The standardisation of some aspects of the Tribunal Procedural Rules of the devolved tribunals will ensure the procedural rules for the tribunal system in Wales are consistent and accessible for tribunal users and for administrative staff and cross-ticketed tribunal members sitting across chambers in the new structure. The chambers into which jurisdictions are organised should have bespoke rules recognising the unique characteristics and needs of their respective jurisdictions. As mentioned in the response to question 36, the Committee should be able to accommodate the needs of individual chambers and jurisdictions provided its membership is drawn from a wide jurisdictional background.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Agree – The Procedural Rules should, but not exclusively, include the above matters. With regard to the rules covering electronic service of documents and remote hearings, it is important that tribunal users who cannot, or decide not to, participate digitally continue to be provided with alternative ways to access the judicial system; these alternatives should be as good as those offered online.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Agree – On the assumption that the new tribunals system in Wales (as set out in the white paper) is established, it is important that its operation is monitored together with that of the wider civil and administrative justice system in Wales and is kept under review. The Senedd's Legislation, Justice and Constitution Committee seems best placed to be able to undertake this role and require regular updates from the judicial leads of the new First-tier and Appeal Tribunals for Wales and the administrative head of Tribunals Wales and others involved in the wider justice system in Wales. The principle of judicial independence and the need to

ensure all the citizens of Wales have proper access to justice, wherever and whenever it is needed, must remain paramount.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

A dedicated First-tier Tribunal and Appeal Tribunal for Wales should be in a better position to be able to provide opportunities for people to use Welsh in the judicial arena. The recruitment of members with suitable expertise and experience and who can speak Welsh is critical to this aim. Cross-deployment between chambers of suitably proficient members who are Welsh speaking should serve to increase these opportunities.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Nothing further to add to the answer to the previous question.

Question 43

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

Your name:

Organisation (if applicable):

Contact details:

Respondent X010

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Yes. We welcome the aspiration that the new system will enhance the public profile of the Tribunal system and that this is particularly pertinent in relation to ALN reform and our previously raised concerns about children, young people and their families experiencing post-code lotteries of access to services as a consequence of decision making being devolved to local authority discretion. It is vital that access to information and guidance on routes of appeal are readily accessible.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes, but highlight the importance for people using the Tribunal system and awaiting Tribunal dates and decisions that appropriate timescales and planning is in place to ensure minimum disruption to operational matters. It will also be important to ensure that accommodations made for children and young people with additional learning needs (ALN) are enhanced in the new system.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

We are unclear about the relevancy of this transfer given the different nature of the Valuation Tribunal for Wales in comparison to the other tribunals being considered.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Unsure

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes – and highlight the importance of transparent impartial decision making and processes.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes – we hold that it is important that school admission appeal panels are transferred to a more impartial body and again, reiterate that changes are planned and implemented in ways that do not adversely affect the public's day to day access to services.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes. We agree that it is essential that decision making is consistent and unquestionably independent.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes – for as long as these arrangements do compromise the integrity of processes.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

We believe that the implementation of the ALN reforms will result in a breadth of likely disputes that lend themselves to being resolved by tribunal. This includes but is not exclusive to decisions around:

- whether a learner has ALN and needs an Individual Development Plan (IDP)
- what constitutes additional learning provision (ALP)
- schools admissions
- access to services for learners with specific learning difficulties and disabilities
- ending of IDPS
- access to further education and training
- a reasonable need for education and training
- permanent exclusions
- disability discrimination in education.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

First Minister and Counsel General

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

No

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

We believe that the proposed statutory body should be constituted as a Welsh Government sponsored Body as a non-ministerial department.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

We believe that the Chair of the Board should be a non-executive member selected through a fair and transparent appointment process.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- i) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- j) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Unsure

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Unsure

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. The systems must be supported with appropriate funding, quality assurance and accountability mechanisms. The workloads of frontline staff undertaking what can often be very complex casework should be carefully monitored to ensure the system does not fail as a result of unreasonable expectations.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising

of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

We anticipate that the proposed reforms will have a positive impact on the Welsh language and its use in these fora.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Question 43

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

The implementation of the ALN reforms will doubtless increase demand on the Education Tribunal system and it is vital that any Tribunal system reform does not delay decision making critical to the education of Wales' children and young people.

In relation to education and training, TSANA is increasingly aware of disputes as fundamental as whether a child with obviously complex learning needs has ALN and if they require ALP and an IDP. It is imperative that the Tribunal system can challenge decision-making in a responsive and timely manner and not leave

children, young people and their families in limbo or in crisis as a consequence of poor or delayed decision making.

[TSANA has previously published a statement on post-16 ALN reform](#) highlighting concerns around equal access to education and training and how ambiguities in the ALN code will result in postcode lotteries for children with low incidence and complex ALN and ultimately increase the number of disputes leading to Tribunals.

Recent evidence from England following SEND reform shows that [96% of LA decisions have been deemed unlawful and overturned on appeal](#) and it is imperative that Welsh Government and local authorities seek to avoid comparable scenarios in Wales and the associated detrimental impact on individuals and the Tribunal system.

The new system must have the flexibility to truly meet the needs of children and young people with ALN including those lacking capacity. Appropriate quality assurance mechanisms should be in place to ensure identified representatives' suitability to undertake the roles assigned to them. The system must equally ensure that representatives (including parents) are appropriately informed and supported to understand their legal entitlements.

We also believe measures should be strengthened to ensure children and young people are supported to participate where they are able to do so. This will require accountability mechanisms for ensuring learners' communication needs and preferences are met. We believe that to not ensure such safeguards devalues the system and any intention to ensure that the rights of Wales' most vulnerable learners are upheld.

Your name:

Organisation (if applicable):

Third Sector Additional Needs Alliance (TSANA)

Contact details:

Respondent X012

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

I agree.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?

I agree. It is essential that the structure has the flexibility to enable new jurisdictions to be brought into the system and transferred between chambers with relative ease (as is proposed, by way of subsidiary legislation by the Welsh Ministers). The general structure proposed has been successful in (e.g.) the reformed UK tribunal system.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

I agree.

However, in my view, it would be very helpful to have a provision similar to section 6 of the Tribunals, Courts and Enforcement Act 2007 (which relates to the UK Upper Tribunal), which would enable judges to be cross deployed into the Appeal Tribunal for Wales from the court system as well as (as is proposed in the White Paper) the Upper Tribunal.

In discussions I have had, some concern has been expressed that the Appeal Tribunal for Wales may not have appropriately experienced and senior judges to deal with the issues that come before it (and, hence, appeal rights should remain with the Upper Tribunal or the High Court as the case

may be at present). I do not agree. That was of course a suggestion made in relation to the Upper Tribunal in 2007, where the concerns expressed have been found to have been baseless. The Appeal Tribunal for Wales will determine important and challenging issues on the interpretation of the laws in Wales and will be the equivalent of the High Court (in the sense that appeals from the tribunal will go to the Court of Appeal). I am confident that the Appeal Tribunal for Wales will attract experienced and appropriately senior judges; and, of course, the President of Welsh Tribunals, experienced First-tier Chamber Presidents and (it is proposed) Upper Tribunal Judges will be available to sit in it. As President of Welsh Tribunals, I would propose to preside in most if not all hearings in the Appeal Tribunal for Wales.

However, especially as (i) it is likely that the workload of the Appeal Tribunal for Wales will grow in terms of numbers of cases and jurisdictions and (ii) the tribunal will usually sit with three members, it would be helpful to have the safety net of having access to judges from the the court system by way of cross deployment. Given the members of the tribunal to which I have already referred, I expect the call for cross deployed judges would be rare – but it would give flexibility in use of judicial resources in the future when (e.g.) as yet unidentified jurisdictions (e.g. youth crime) are devolved and possibly brought within this structure, or there is a sudden increase in workload; and it will ensure that appropriately experienced and senior judges are available for each case.

The list of such judges need not be as extensive as that in section 6; but could (and, in my view, should) include Court of Appeal, High Court, Circuit and District Judges, as well as Upper Tribunal Judges, including in each case retired judges.

Although I see any need for such judges being mainly in the Upper Tribunal, to allow for future flexibility, in my view, it would be sensible to include a power in the Act so that court system judges and judges from the First-tier Tribunal and the Upper Tribunal of the UK tribunals could be cross deployed into the First-tier Tribunal for Wales. In short, I consider that the power to cross deploy judges should be as wide as possible, even if such powers may be rarely used in practice. Any actual cross deployment would, in any event, be subject to the now usual checks and balances.

Of course, if this is to be pursued, it would require consultation with (amongst others) the Chief Justice and the Presiding Judges for Wales; but, as it reflects the current flexible position in relation to UK tribunals in Wales, it seems to me that it is likely to be a uncontroversial provision.

Finally, I do not necessarily agree that “The First-tier Tribunal for Wales” and “The Appeal Tribunal for Wales” are the optimal names for the two proposed tribunals. I consider that this is a matter that should be the subject of further consideration (and, possibly, consultation) with a view to the names being, not only appropriately descriptive, but as short and simple as practically possible.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

I agree.

As the White Paper indicates, it is important that transfer does not have an adverse impact on the ongoing business of each of the current tribunals. This will be a significant challenge – but I do not see any difficulty with business as usual being a distinct stream of work within the implementation programme. This was done in the (much bigger) UK tribunal reform implementation programme, with substantial success.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

I agree; and consider that the transfer in should be made at the same time as the current Welsh tribunal jurisdictions.

I appreciate that the VTW has a model for adjudicating dispute that is different from other tribunals being transferred in, and I do not underestimate the practical challenges that this will involve – but the advantages (in terms of coherent and efficient administration, and the perception of the adjudication system as judicial and independent) are such that, in my view, not only should the VTW be transferred to the First-tier Tribunal for Wales, but that transfer should be made sooner rather than later so that the advantages can accrue sooner rather than later. I do not see any advantage in delay. The transfer in can (and, in my view, should) be made without any significant change to the current model of adjudication, any reform of that model then taking place within the reformed system.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

As indicated above, it is my firm view that the VTW should be transferred into the First-tier Tribunal for Wales at the outset. If it is not, then I would urge that an in principle decision to transfer is made and publicised; and transfer in is either given a date or at least kept under review with a formal review of the decision to transfer being required every (say) two years.

If the VTW is transferred in, it would then, of course, fall under the supervision of the President of Welsh Tribunals. If it is not transferred in, whilst it would be possible for the President of Welsh Tribunals to supervise the VTW (and I accept that this may be the best course in those circumstances), this would mean the President engaging with an entirely separate system, administration and Council/Board that would, at best, be time consuming – and would risk diverting the President from the substantial other work that will be involved in implementing the new reformed system.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

For the reasons given in the Thomas Report and the White Paper, I agree.

As the White Paper indicates, the consequences of school exclusion for a child are likely to be serious for that child; and, post-COVID, exclusions are more common and the adverse consequences of an exclusion are likely to be more serious. Post-COVID, the justification for the transfer in of school exclusion appeals is even more compelling.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

I agree.

The position in relation to school admission appeals is fundamentally different from school exclusion appeals. Whilst, in my view, on principle, school admission appeals should be within the First-tier Tribunal for Wales, the practical challenges of incorporating this work into the new tribunal are such that this should not be part of the first phase of transfers. It would, however, be useful if the transfer in was not left completely open ended; and that some indication is given as to timing (i.e. that the decision to transfer in

will be reviewed at least every two years; or that transfer in will not be considered for X years). That will assist in forward planning for both the current school admission panels and their administration, and the First-tier Tribunal for Wales.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

I agree. This would be an appropriate and helpful link between the school admission panels and the reformed tribunal system in Wales, until the panels are fully transferred in.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

I agree. My predecessor as President of Welsh Tribunals and I have had input into the chamber structure and proposed names, and the White Paper proposal generally reflects our views.

I specifically agree that there should be a “General Regulatory Chamber”, initially empty, but into which new jurisdictions could be placed, permanently or temporarily. That is a sensible, forward-looking provision.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

I agree: as a matter of principle, disputes deriving from Welsh law should be determined by an institution that is ultimately responsible to the people of Wales, i.e. a judicial institution established in Wales under the laws of Wales which, whilst independent, is subject to the appropriate scrutiny of the Senedd . In my view, this a vital principle.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

In my view, one example is disputes under the planning laws. Not only is town and country planning a devolved function, planning statutes and (just as importantly) guidance in Wales is now substantially different from the scheme in England. It requires specialist judges and some degree of urgency, and it has quintessential “local” importance. I am glad to say that Welsh planning cases are now heard by the Administrative Court in Wales; but, in my view, in Wales, such public law disputes lend themselves to determination in a tribunal context (with, of course, experienced judges of appropriate seniority).

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

I agree. As well as providing a structurally coherent system, the White Paper proposals will enable the laws and jurisprudence of Wales to be developed in a coherent way. The Appeal Tribunal for Wales is a vital component in that development.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

I agree. The basis of this proposal is the Law Commission’s recommendation that there be a clean and cohesive appeal structure. It is an important element of that structure that users (including respondent arms of government) intuitively know how and to where an appeal against First-tier Tribunal decisions can be made. Furthermore, as I have indicated, if appeals go to a single body, this will assist in the coherent development of the jurisprudence of Wales. Most development of the law will occur at the Appeal Tribunal level: it is right in principle and practice that the court at that level is an institution established in Wales under the laws of Wales, and thus responsible to the people of Wales.

I am aware that there is a body of opinion – to which some Judicial Leads adhere – that certain First-tier Tribunal for Wales jurisdictions should have a route of appeal elsewhere, e.g. to the Upper Tribunal or the High Court (where the route currently lies). However, I do not agree.

I would make four points.

First, the procedures and practice of the Appeal Tribunal for Wales will be flexible enough to cater for appeals from a wide variety of first instance decisions.

Second, even where a substantive area is devolved but the law is at present still largely the same in Wales and England, (i) the laws are likely to diverge over time, and (ii) it is not uncommon for courts/tribunals in parallel jurisdictions to be required to interpret the same laws. Benefits and tax are examples, where there are distinct tribunals in Northern Ireland but interpreting substantially identical legislation. This does not cause problems in practice: there are ways in which parallel tribunals are able to develop the law in a consistent and coherent way (e.g. by the use of persuasive precedent, and even cross deployment in some cases). I do not foresee there being any difficulty in practice.

Third, it is also said that to transfer an appeal route to an Appeal Tribunal would result in less experienced or less senior judges dealing with appeals than would be appropriate. I have already dealt with this point in response to Question 3. As President of Welsh Tribunals, I propose sitting in most if not all Appeal Tribunal for Wales hearings. It is proposed that (UK) Upper Tribunal Judges will be cross deployable into the Appeal Tribunal for Wales. I envisage judges at High Court and even Court of Appeal level sitting in the Appeal Tribunal for Wales where required, as they are allowed to do in the Upper Tribunal. Because of the nature of Wales and its jurisdictions, I would hope that judges of at least the same – and, often, greater – experience and seniority will sit on cases in the Appeal Tribunal for Wales. I have no doubt that, in respect of each case, only judges of appropriate experience and seniority will do so.

Finally, similar arguments were used when the Upper Tribunal was established as part of the reform of UK tribunals. The provisions in the UK reformed tribunal system – in which the default position is that appeals go from the First-tier Tribunal to the Upper Tribunal – has worked well in practice.

I strongly commend this proposal.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

In my view, appeals from all First-tier Tribunal for Wales chambers should be transferred to the Appeal Tribunal for Wales from the outset (except if there are exceptional reasons requiring a different appeal route – as presently advised, in my view, there is none). Other jurisdictions can be added as and when they are transferred in.

Whilst I agree that there should be provision for the Appeal Tribunal for Wales to have chambers, at the outset the workload would not necessitate any chambers actually being in place: and, in my view, chambers would not be appropriate. Appeals from the Welsh Tribunals are currently very few, but numbers are likely to increase in number as (i) new, devolved provisions are scrutinised and challenged, (ii) new jurisdictions are transferred in and (iii) the appeal route becomes (or, at least, is perceived to be) more accessible. However, the growth of appeals is likely to be gradual. For the present, in my view, appeals could be best administered without division under the supervision of the President of Welsh Tribunals (who would in effect be the President of the Appeal Tribunal for Wales) until the workload makes chambers appropriate and helpful.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

I agree.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

All Welsh Ministers. It is important that all Welsh Ministers (and not just those directly responsible for the administration of justice, i.e. the First Minister and the Counsel General/Minister for the Constitution) should be included, given that they will hold the portfolios of government business that will be the subject of the work of the Welsh tribunals and will be collectively

responsible for maintaining the independence of the Welsh tribunal judiciary.

I accept that the position of the Members of the Senedd is more difficult, given their responsibility for (e.g.) funding the justice system on the one hand and the importance of the principle of freedom of speech in the Senedd on the other. It may be that a protocol (rather than a formal statutory obligation) would be appropriate. However, in my view, this is essentially a matter for consideration by the Senedd itself.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes.

The judicial oath and oath of allegiance are each vitally important to the public confidence in the judiciary (especially, the former) and perception of judicial independence (especially, the latter – the oath of allegiance make it clear that a judge is not answerable to the executive government). Although perhaps not as important, the formal public oath ceremony is also an important event for the family members of a new (especially, full time or otherwise salaried judge), who have frequently made their own sacrifices to facilitate an individual's judicial career.

There was a substantial debate about whether tribunal judges should take the oaths in the reformed UK tribunal system – in which there were substantial challenges in organising the 10,000-plus judges to take the oaths – before the requirement was included in the Tribunals, Courts and Enforcement Act 2007. I was involved in that debate, and in the implementation of the decision to require oaths; and have been sufficiently involved in tribunals since to make an informed view. I have no doubt that the oaths requirement in the 2007 Act has enhanced confidence in the UK tribunal judiciary and their independence.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

As I have indicated, in my view the oath(s) should include the relevant elements from the current judicial oath and oath of allegiance; but I would support a modern formulation. The formulation could be in the form of a single oath covering both aspects of the current oaths.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

I agree, for the reasons set out in the White Paper. Administrative arrangements for the reformed tribunal system will inevitably involve cooperation amounting to a “partnership” (in the non-technical meaning of that word) between the executive and the judiciary. Whilst the HMCTS model has some advantages in implementing such a partnership, I agree with the White Paper that the establishment by statute of a separate organisation would give a more appropriate degree of separation of the administration of the tribunal system from the executive as such in Wales; and it would give rise to a clearer and more straightforward structure than that required by (e.g.) a framework document.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

I agree with the White Paper that neither the NMD nor the WSSB model is inherently more independent than the other; nor do I think it will be perceived to be more independent by the public. I have no preference for the model to be adopted: it seems to me that the decision as to which model should be used will be informed by matters such as the impact on staff etc, as indicated in the White Paper.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

I have considered this question with particular care. Whilst I am always concerned that judicial leaders risk being overwhelmed by their management and administrative functions – because I am firmly of the view that a judge's primary duty is to sit on cases – I am persuaded that the President of Welsh Tribunals should be the Chair of the Board of the proposed statutory body. The President will in any event need to understand “the business” and will be a member of the Board, and so the additional work as chair will only be incremental – and, especially as it is proposed that the majority of the Board will be government-nominated, non-judicial members, having the President as Chair will assist in the public perception that the statutory body (and, hence, the judiciary) is indeed independent of the executive. It will also, I consider, give the tribunal judiciary greater confidence in the administrative arrangements.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No further comments at this stage, except to say that it is clear that the administrative workload involved in the new statutory body will be substantial, and will require carefully appropriate staffing and significant resources in respect of implementation and maintenance.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

I agree.

It is my very firm view that any judicial leader should sit in the jurisdictions that they lead, which (i) enables them to lead and manage in a more informed way, (ii) enables them to determine the more challenging and important cases with their jurisdiction(s), (iii) enables them to develop the jurisprudence within their jurisdiction(s) and (iv) is likely to give the judiciary in those jurisdictions greater confidence in their leadership. As President of Welsh Tribunals, I would propose presiding in most if not all Appeal Tribunal for Wales hearings.

Although perhaps not directly relevant for the purposes of this consultation, I do not entirely agree with my predecessor Sir Wyn Williams who is quoted at paragraph 122 of the White Paper that, in his view, “the President [of Welsh Tribunals] should sit as a legal chair of a Tribunal only if the Judicial Lead of that Tribunal and the President agree that the circumstances prevailing in a given case make it inappropriate for the Judicial Lead to sit”. In my view, there may be circumstances in which it would be appropriate for the President of Welsh Tribunals to preside with the Judicial Lead as a side member, particularly if and when the Appeal Tribunal for Wales is split into chambers, each with its own President. That is a practice I adopted when I was President of the Administrative Appeals Chamber of the Upper Tribunal, when I sat on a number of cases with the then Senior President of Tribunals (Sir Robert Carnwath, as he then was) presiding. In practice, it may helpfully add to the authority to the judgment of the tribunal.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

I agree.

Without detracting from the importance of the other duties and functions, I would emphasise the importance of the function of determining complaints against members of either of the proposed tribunals lying with the President of Welsh Tribunals.

I refer to the Response to Question 36 in respect of one note of caution concerning the role of the President of Welsh Tribunals chairing the Tribunal Procedure Committee.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

I agree.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- k) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- l) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

I agree. For historical reasons, the current arrangements for appointments lacks coherence; and includes the involvement of the Lord Chancellor as appointing authority or statutory consultee, when now the Lord Chancellor has no legitimate interest in such appointments. The proposals are for a simple and coherent appointment mechanism, with appropriate (including hierarchically appropriate) appointing authorities.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

I agree with the principle that underlies this question. Appointments will, of course, continue to be made on merit: but the President of Welsh Tribunals and Welsh Ministers should be committed to promoting diversity and inclusion within the Welsh tribunal judiciary by (e.g.) appropriately expanding the range of eligibility, and ensuring that those eligible for appointment are made aware of relevant competitions and are encouraged to apply, and that barriers to application/appointment are identified and steps taken to remove them.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Again, I agree with the principle that underlies this question; although I am not sure what is meant by “enable the pool of candidates for appointment to be drawn as widely as possible”. The formal requirements for appointment (in terms of, e.g. years PQE) need to be appropriately drawn, but should be no more restrictive than is in practice required. For most (and possibly all) members of the First-tier Tribunal for Wales and Appeal Tribunal for Wales, appropriately qualified Fellows of CILEx should be eligible. For maximum flexibility in respect of PQE, the words “... or equivalent” could be included, which would capture (e.g.) academics and in-house lawyers who might not otherwise be captured. In another context, I know of one eminently suitable and experienced lawyer who has to sit as a lay side member of a tribunal as he is unable to be a legal member because he does not have the relevant PQE (although he does have years of inhouse legal experience, and a Master’s Degree in the relevant area of law).

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

I agree.

For cross deployment to work properly and efficiently, it is important that the terms and conditions of tribunal members are at least moderated, so that (e.g.) a member does not prefer one jurisdiction to another on pay and T&C grounds alone.

Whilst no doubt only after proper consultation with (e.g.) the President of Welsh Tribunals and Judicial Leads – and having taken into account their overarching obligation to maintain the independence of the judiciary –the terms and conditions for Welsh tribunal judges are ultimately a matter for the Welsh Ministers.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

I agree. Wales is a small jurisdiction. It is particularly important to use resources (including judicial resources) efficiently, and not to have more than necessary competitions in which many applicants may be common. Cross deployment is currently very important: it will continue to be vital. As I have indicated (see, e.g., my response to Question 3), in my view, in addition to cross deployment as between chambers of the proposed new Welsh tribunals, there should be the power to cross deploy judges of the UK reformed tribunals and the court system on the one hand, and Welsh tribunal judges on the other.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes.

Given the nature of the post, there is a strong argument for the President of Welsh Tribunals to be a Crown appointment by Royal Warrant (as are appointments to the High Court, for example). This is particularly so if, as is perhaps likely to be the case, the President is not a current High Court or Court of Appeal Judge on secondment from the court system.

In any event, for the reasons set out in the White Paper, the Lord Chancellor has no legitimate interest in the appointment. If not by Royal Warrant, the appointment should be by the Welsh Ministers with the approval of the Chief Justice, as proposed in the White Paper.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

I agree.

Whilst it is essential to have a procedure for dealing with complaints in respect of a judge's conduct, such complaints can be an unreasonable and unnecessary drain on judicial and administrative resources. It is essential that there is a procedure in place for dealing with such complaints effectively, efficiently, proportionately and promptly.

Complaints about a judge are often about the judge's decision, rather than their conduct. For First-tier Tribunal for Wales Judges, the relevant Chamber President should determine whether there is any complaint of conduct made; and, if there is, with the President of Welsh Tribunal's approval, appoint someone to investigate. That person may be a judge or retired judge: and will often be the President of another chamber.

For Appeal Tribunal for Wales Judges, the President of Welsh Tribunals should determine whether there is any complaint of conduct made, and if so appoint someone to investigate. If the JCIO is able to conduct such investigations, that would be one option. But it would be possible to maintain a panel of (say) retired judges of Wales who would make themselves available to conduct investigations into the conduct of Appeal Tribunal judges if necessary. The number of cases is likely to be very few. A distinct panel for Wales is likely to turn round investigations quicker than the JCIO. The JCIO being a UK institution, on the usual principles of devolution and for the practical reasons to which I have referred, a separate panel would be my preferred option.

I agree with the proposals in respect of the sanction of dismissal.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Please see the Response to Question 33.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

I agree.

As with judicial complaints, complaints in respect of the administration of the justice system can be a drain on administrative resources. It is again essential that there is a procedure in place for dealing with such complaints effectively, efficiently, proportionately and promptly. Such an internal procedure should ensure that very few complaints proceed further to (e.g.) the Public Service Ombudsman for Wales.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

I agree. It is essential that procedural rule making is not a function of the executive; and the proposed statutory committee appears to me to be the optimal vehicle for this.

One note of caution. Whilst I agree that the President of Welsh Tribunals should be the Chair of the Tribunal Procedure Committee for Wales, it is likely that the rationalisation of the various jurisdictional procedural rules (envisaged in the White Paper: see paragraphs 186-191) will involve substantial time during the initial years of the new tribunals. However, if necessary, that could be accomplished with the assistance of delegation (already provided for in the White Paper proposals). It does not, of course, detract from the proposition that the President of Welsh Tribunals should be responsible for Tribunal Procedural Rules. He should.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

For the reasons in essence set out in paragraph 181 of the White Paper, I agree.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

I agree. One of the main planks of coherence within the new tribunal system would be common rules, adopting not only generally the same procedural rules but also rules reflecting best practice; with exceptions only where objectively justified.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

I agree.

A power in a tribunal to review its own decisions is useful to avoid unnecessary formal challenges to decisions which are clearly wrong, but the grounds on which review can be sought should be restricted, in the now usual way, to circumstances in which no tribunal could have reached the decision on the available evidence, there is material fresh evidence or there has been serious material procedural error. I strongly commend the adoption of such a power – for both the First-tier Tribunal for Wales and the Appeal Tribunal for Wales.

I agree the adoption of the other requirements of the procedural rules for the reasons set out in the White Paper.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

I agree; although the precise forum in which this could best be done is a more difficult question. It would involve engagement with (amongst others) the various arms of the court judiciary in Wales, the Welsh Tribunal judiciary, the UK tribunals judiciary who sit in Wales, the respective administrative arms of HMCTS and the Welsh Tribunals Unit (and its successor under the proposed reforms), the policy arm of the sections of Welsh government involved in justice, the various arms of the legal profession in Wales, and appropriate academics.

Whilst the Law Council for Wales might be one option, in my view, the best forum needs further consideration and consultation. But I am a long-standing advocate of bringing together the strands of civil and administrative justice in Wales; and I am strongly in favour of some body that will keep the operation of the civil and administrative justice in Wales (including possible extensions of the system of devolved justice) under review.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

I do not see any adverse effects of the proposed reforms, On the contrary, because I would expect that the First-tier Tribunal for Wales, the Appeals Tribunal for Wales and the supporting administrative body will be subject to the statutory Welsh language standards which require at least the facilitation of the Welsh language, coupled with the steps the Welsh Tribunals are currently taking to identify why the Welsh language is not more used in Welsh Tribunals (with a view to removing any identified barriers), the proposed reforms should increase opportunities for people to use the Welsh language in their communications with tribunals in Wales and in hearings.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

The proposals should include a requirement that the First-tier Tribunal for Wales, the Appeals Tribunal for Wales and the supporting administrative body be subject to the appropriate statutory Welsh language standards.

Question 43

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

In my view, the White Paper addresses all the relevant issues. Like my predecessor as President of Welsh Tribunals Sir Wyn Williams, I am fully supportive of the principles upon which these reforms are based and (as will appear from the above) fully supportive of the proposals made in the White Paper. In my view, they will benefit the administration of justice in Wales – assisting the judges and administrators of the justice system, but particularly benefiting the people of Wales.

I strongly commend the proposals.

I would add only a short comment about implementation of the proposals, upon which the White Paper (understandably) has not asked for comment.

Leaving aside any costs of implementation – and I note that the current Welsh Tribunals Unit is small and it is likely to need further resources to enable implementation – the reform of the Welsh Tribunals will, in due course, require consideration of the infrastructure in terms of buildings, IT etc. Of course, this will be a substantial challenge – but I am confident that, by looking at these issues in a different and innovative way, we will be able to provide the people of Wales with an effective and accessible justice system at reasonable and proportionate cost. This is a challenge to which we should look forward.

I hope that my responses above are clear; but, if there are any queries about them or if I can assist in any further way, please do not hesitate to contact me.

Your name:

The Rt Hon Sir Gary Hickinbottom

Organisation (if applicable):

President of Welsh Tribunals

Contact details:

Respondent X013

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

The tribunals listed in para 22 are agreed. Social Care Wales panels should also be included.

Regarding the definition of ‘tribunal’, the subject matter for a tribunal’s consideration is normally confined to civil or administrative law (see para 45 re Thomas Commission). Criminal law is therefore excluded so the suggestion (para 68) that youth justice could be a potential candidate for inclusion in a Wales tribunal system seems misplaced.

A new structure for Wales’ tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

The proposed structure seems appropriate and have sufficient flexibility to meet current and future needs.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Again, the proposed structure seems apposite. There is slight concern about the process of appointing existing members of the Upper Tribunal for England and Wales to the Appeal Tribunal for Wales (eg, it might restrict the ability to appoint members from more diverse backgrounds). While such appointees may well bring relevant experience and expertise, it is believed sufficiently qualified other candidates will exist within Wales.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

This is agreed but the jurisdiction of Social Care Wales panels should also be included (together with appeals from those panels). The rationale for not transferring is not understood.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

This is agreed. To not do so militates against a unified and coherent system. Transferring this jurisdiction also enhances the independence of the VTW (and, importantly, perception of independence). While there are obvious cost implications, members of VTW should, like other tribunal members, be remunerated – this would improve diversity, reduce exclusion, and increase accountability.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes, although not the preferred option. The arrangements enabling the PWT to have effective supervision in practice would need to appropriately formulated.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

This is agreed for the reasons set out in paras 60 and 61.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

The jurisdiction should be transferred but, for practical reasons, keeping things at a local authority level pro tem is agreed. The concern is that having taken this pragmatic approach matters continue this way indefinitely. Consideration could be given to time limiting these interim arrangements.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

As it is intended that the first instance jurisdiction should eventually transfer, why not just have a right to appeal on a point of law to the ATW? In any event, if an appeal went to the FTW, would there be a further right of appeal and to whom?

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

This is agreed. The proposed General Chamber (do you need 'Regulatory'?) conceivably may never have a jurisdiction if new jurisdictions transfer to newly created chambers – but, that said, there seems good cause for its establishment.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

This is a sensible and appropriate approach - and should apply at first tier and appeal levels. Current routes of appeal in relation to devolved tribunals should be absorbed into the Wales tribunal system (including social care). In the event of further devolution, this will be assimilated into 'Welsh law' – and there will need to be a accompanying review of implications for the Wales tribunal system.

Para 71 also mentions the Thomas Commission commenting that legislation in Welsh law cases may provide for dispute resolution to take place in the County Court. These cases need to be identified and it be assessed whether they are appropriate for Wales tribunal system resolution.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

It is not entirely clear, but it is assumed the question refers to matters in Welsh law which are within the jurisdiction of Welsh tribunals. Devolved taxation is mentioned in para 73 as a possible candidate – this is agreed. Another candidate might be the County Court route mentioned in the Question 11 box (time, unfortunately, has not allowed the opportunity to identify examples).

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

This is essential to bring overall coherence to the system. Its decisions should create precedent and be binding on the FTW. It will enable greater certainty about the law and its application (whether in a general procedural context or something topic specific) – which in turn should make the system more efficient and benefit users and practitioners. An effective ATW would better uphold the rule of law.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

The ATW should be the appellate body for all appeals from the FTW. But to provide for flexibility an appeal on a point of law from the FTW could be heard by a court with the leave of the ATW.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

This is appropriate. The ATW needs to develop (and be nurtured) to maximise its eventual effectiveness – so interim arrangements are essential with a staggered acquisition of jurisdiction. Decisions as to chambers should be left to subordinate legislation to preserve flexibility. Concurrence of the PWT is required to prevent undue pressure and preserve independence. In practice it is assumed the protocol will be that Welsh Ministers will make chamber divisions on the recommendation of the PWT.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

This is agreed. How that duty is framed though is crucial. For reasons of consistency, an appropriate way to proceed might be to apply provision akin to section 3 of the Constitutional Reform Act 2006 with appropriate modifications. For example:

- **Welsh Government and all with the responsibility for the administration as it applies to the Wales tribunal system must uphold of Welsh tribunal members.**
- **The Counsel General must have regard to the need to defend that independence and for the Welsh tribunal members to have the support necessary to enable them to exercise their functions.**

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Welsh Government (ie, First Minister, Counsel General, Welsh Ministers and deputies) and persons working for the Welsh Government.

Persons working directly for or with the Wales tribunal system.

Senedd members should not be included unless they have responsibility for the administration of justice as it applies to the Wales tribunal system (eg, as a Welsh Minister). [NB although it seems the MSPs have the duty applied to them - Tribunals (Scotland) Act 2014, section 3].

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Taking a suitably worded oath is preferred - and the requirement can be embedded in legislation. Effective independence of the Welsh tribunal members judiciary not only depends on the conduct of those who are involved in its support but on the conduct of the members themselves. Taking an oath promotes that duty for the member, as well for others.

This would be consistent with Senedd members' obligations (see Government of Wales Act 2006, section 23). Section 23(6) also provides that no payment etc is to be paid to an MS until the oath has been taken. Consistency suggests a similar requirement for tribunal members.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Omit 'laws and usages of this realm.' and replace with 'law.' The reference to 'realm' is archaic and could potentially put off those with a republican disposition – thus reducing the pool of potential candidates.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Agreed - very much so. It helps secure genuine independence in working practice (together with the perception for this).

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

A separate statutory body is required to demonstrate structural independence - and on the face either option is acceptable. On balance the non-ministerial department is preferred because staff will have civil service status. The impartiality and independence of civil servants are better protected (eg, through the civil service code) than other public servants (such as local authority workers). This should also help recruitment to the body as positions would be open to existing civil servants as well as those who previously worked outside the civil service. Career opportunities would also be better if staff are part of the civil service. If this course was adopted special arrangements could be made/negotiated in relation to current Valuation Tribunal for Wales staff on their transfer so that they do not suffer detriment (eg, existing status protected, option to transfer to civil service). Future staff appointments in that jurisdiction would be as civil servants.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

For reasons mainly related to establishing and safeguarding working independence, the strong preference is for the chair to be the PWT ex officio.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

These on the face seem appropriate for establishing a body that is structurally independent. Specific points arising include:

- Any power of direction by the Welsh Government to TW must be limited and strictly necessary.
- Giving advice to the Welsh Government can be with respect to prospective functions (as well as existing functions or, more generally, the administration of justice in Wales).
- The need for power for the Welsh Government to step in where TW is in default is understood but commissioning a work which explores the circumstances in which this might occur would be beneficial (and which could then inform policy arrangements and the accompanying subordinate legislation).
- It is suggested that TW can appoint committees and delegate powers to them. What about extending provision to sub-committees? A TW committee might want to establish a sub-committee conceivably.
- Should TW have a general power to do things conducive or incidental to the discharge of any of its functions? See, eg, Local Government Act 1972, section 111.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Agreed – para 124 sets out cogent reasons in support. It seems wrong in principle that the PWT should not have the right to sit in proceedings of either the FTW or the ATW (although, of course, it might not be appropriate in an individual case because of, say, a conflict of interest).

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Agreed. There needs to be clarity about the role (eg, so there is no need to look for implied powers, as now). Matters identified seem pertinent but, as noted, these are not considered exhaustive.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

The three principles as set out in para 130 are agreed. In particular, although it involves fine balancing, the protection of judicial independence is vital, while also retaining judicial accountability.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- m) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- n) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

The proposed role for the PWT is agreed. Given the nature of the role of Counsel General it appears anomalous if the Counsel General is not involved in the process – whether alongside or instead of Welsh Ministers (the latter is the preferred option).

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Agreed. This is necessary in the interests of fairness and because recruiting from a wider and more representative pool should lead to a greater range of candidates and better-quality decision making.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Agreed - to encourage diversity, and the benefits that should flow (see Question 28 response).

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Agreed in part – surely the Counsel General should also be involved? He/she/they will inform the process.

Note - the duty to promote judicial independence of the Wales tribunal system to be imposed on Welsh Ministers (among others such as the Counsel General) should mean that terms and conditions of appointment are sufficiently attractive not to deter suitable candidates from seeking appointment.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Agreed – this is eminently sensible for a range of good reasons. It is also something that might increase the attraction for seeking appointment as a tribunal member.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

It is agreed that the Lord Chancellor should no longer have a role in the appointment of the PWT. The role of Lord Chancellor should be replaced by the Counsel General.

Welsh Ministers' role as consultees should be retained. Ideally the Lord Chief Justice should not be the appointing authority – there should be a Welsh appointing authority. The difficulty at this point though is trying to envisage who/what might be a Welsh appointing authority – it should be a judicial appointment. More consideration is required about the detail.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Agreed – in particular, because of the need for uniformity across the various jurisdictions.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

The need for an independent body or person to have an investigatory role is essential (to prevent executive influence and uphold judicial accountability). The Judicial Conduct Complaints Office seems best placed (and equipped) to do this.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Agreed – the proposed (but limited) role of the Public Services Ombudsman for Wales is also agreed.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

A standing committee with responsibility for creating TPRs together with an ongoing duty of review is essential. The committee must also be sufficiently resourced (including a secretariat which is exclusively available to the committee). It is proposed that committee members will be unremunerated. This seems wrong. It is exclusionary (and possibly discriminatory) – it restricts the pool of potential candidates.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Agreed – although it is proposed the rules are made by statutory instrument it does not state what procedure in Senedd proceedings should apply to their making (eg, so-called ‘negative resolution’). The preferred course would be a requirement simply for the statutory instrument to be published.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

This is plainly the most sensible approach – ie, a general consistency where difference is justified by context.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Agreed subject to:

- It is envisaged that a duty to co-operate may (conceivably) cause tension with another duty (eg, a lawyer will have a professional duty to her/his/their client). A duty to co-operate could be framed in such a way to take account of other duties.
- No power for the ATW to review its own decisions is mentioned. There may be good reason – but it is not clear what that might be.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Very much agreed. The PWT and Counsel General can play a central role – perhaps assisted by an advisory group consisting of suitable people. Areas of review could include:

1. The operation of the Wales tribunal system.
2. The relationship between the Wales tribunal system and the wider operation of civil and administrative justice in Wales (eg, 'non-Welsh' tribunals in Wales, civil courts in Wales, access to advice).
3. Related matters arising from 1 and 2.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

The law in relation to the Welsh language will apply to the Wales tribunal system and users will have the right to have their dealings through the medium of Welsh. As well as language equality, the subject raises:

- Rule of law issues (eg, access to justice).
- Human rights issues (article 10 ECHR (freedom of expression) and article 14 ECHR (*Prohibition of discrimination in enjoyment of ECHR rights*)).

Presumably, there will be engagement with the Welsh Language Commissioner. There is no reason why the Wales tribunal system should not embrace the Welsh language.

Resourcing is key.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

The Welsh language must be in initial contemplation and actively involved in the development of the Wales tribunal system.

Question 43

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

As mentioned, Youth Justice is part of the criminal justice system. Tribunals form part of the civil and administrative justice system.

It has not been expressly covered but it is assumed the Wales tribunal system would be linked to the court system (eg, provision of appeal from the ATW to the Court of Appeal).

Your name:

Dr Huw Evans

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Contact details:

Respondent X014

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

There are other tribunals currently within the HMCTS family of Tribunals which could and should be included in the list on the basis that the reference in the primary legislation is simply to “the tribunal” or to the “First-tier Tribunal” rather than to a specific Chamber. Section 104 and 145 of the Social Care Wales Act contain such provisions and Part 8 which provides: “An appeal lies to the tribunal against a decision contained in a notice given under section 17(2), (3)(a) or (5), 19(4), 22(5) or (6) or 25(2) or (5)”. Although the current interpretation is that they should be heard in the First-tier Tribunal Care Standards, moving the jurisdiction into the new structure would not require a change to the primary legislation and should therefore be considered as part of the initial tranche. There are probably others currently allocated to the First-tier Tribunal General Regulatory Chamber which are in the same position.

The Valuation Tribunal for Wales is not chaired by a legally qualified member but receives its legal advice from a legally qualified clerk – much the same as magistrates’ courts. To bring the Tribunal into a unified system would be an opportunity to use legally qualified chairs thereby obviating the need for a fourth person to advise the panel. At present, its composition is not on all fours with the other tribunals in the list.

At present the same is true of schools admissions, exclusions and independent appeals panels, but the composition should change if they are brought into the Education Tribunal for Wales to ensure consistency and efficiency.

A new structure for Wales’ tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Yes

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

yes

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes – but there will be other jurisdictions currently in the reserved tribunals such as Care Standards, Primary Health Lists and some General Regulatory Chamber jurisdictions which could be included without any changes to the primary legislation.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

The Valuation Tribunal for Wales does not currently have a legal chair or member and is advised as to the relevant statutory position during a hearing by a legally qualified clerk. If the jurisdiction is transferred into the First-tier Tribunal for Wales, then it would be an opportunity to transform the jurisdiction so that it has a legally qualified chair and will be able to function using the transferrable skills of other judicial office holders to conduct the hearings, without the additional requirement for a legally qualified clerk thereby rendering the jurisdiction more efficient and providing additional career progression opportunities for judges who wish to sit in that jurisdiction.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

NO. There is an excellent opportunity now to amalgamate, streamline and synchronise all education appeals into a single structure. There is an opportunity to enable school admission decisions to be dovetailed with the special educational needs decisions to ensure that they are dealt with at the same time or that 'double-hatted' panels in the Education Tribunal are able to consolidate and hear together special educational needs placement appeals and admission appeals for school places relating to the same school or the same child/family.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

If the proposal contained in the response to Q8 is not adopted, then there should be an interim position of a right of appeal to the Education Tribunal. Whilst it may be attractive to restrict the appeal to a point of law, the position in schools is so fluid that the Education Tribunal should be able to consider the position in fact and law down to date of hearing. There may have been a significant change of circumstances in the school since the original decision was made which would justify a full merits review of the original decision by the Appeal Tribunal rather than an appeal limited to a point of law only.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

The initial Chamber structure proposed appears to be a set of single jurisdiction Chambers. Would it be more appropriate to identify the Chambers more broadly – Health – to include at this stage Mental Health; Education for the education appeals set; Property – as suggested but adding the Valuation Tribunal as it relates to business rates and finally, standards or Regulatory – which would incorporate the APW and any new regulatory jurisdictions brought in at a later date. Regulation of care homes, care workers and social workers would fall into this category together with any additional General Regulatory matters at a future date.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes. There is a strong current appetite by the public in Wales for a distinct and separate Welsh identity and the move would reflect that thinking.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Although not strictly a response to this question, the setting up of the new structure should enable clarification of the interface between the ombudsmen and tribunals and the formal introduction of signposting or closer ties between them. A single access portal, whereby complaints and appeals could be cross referred or transferred to save the public having to apply separately to multiple routes for resolution would be a good use of resources, provide user satisfaction for all users, especially those already struggling with multiple issues and agencies and a potential reduction in administrative resources.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes, but the transition period should be relatively short because of the benefits to individual jurisdictions and their comparatively small size in Wales.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes – this is an essential element of the change.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

The First Minister, the Welsh Ministers, the Counsel General and any other persons discharging a responsibility as regards the new tribunals together with the members of the Senedd.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes. It emphasises the importance of the role of the judicial office holders, underlines their responsibilities in taking on the new role and identifies to the public their commitment to ensuring justice and fairness.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

The oath/affirmation should promise to serve the people of Wales, uphold the law, promote the rule of law and ensure the delivery of justice to all who appear, without fear or favour, affection or ill will.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes – removing the administration from political control is essential.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

The proposed statutory body should be a non-ministerial department or agency, which sits outside political influence,

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

President of Welsh Teibunal ex officio

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

The new tribunal system must be properly funded and judicial office holders properly remunerated for their work.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Consideration should be given to the establishment of a judicial appointments board who would be responsible for the process of appointment of judicial office holders. The Judicial Appointments Commission processes are now so convoluted and slow that they are ineffectual in responding to the needs of the judiciary in terms of appointments especially where there are retirements and sudden departures. A smaller body would be more effective and probably more successful in introducing the level of diversity which reflects current Welsh society – whether it is a Welsh parallel to the JAC or an entirely different body. It is important to ensure that the appointment processes are seen to be on a par with judicial appointments in England – although I am not aware that there has been any question about the calibre and quality of Scottish judicial appointments.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- o) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- p) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for

Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes – but there should be judicial input to ensure that the terms and conditions reflect the time and effort required to undertake the work to a sufficient standard.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes – cross pollination and shared training are significant assets to a tribunal system.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. The investigation of complaints is an onerous and time consuming job especially in the digital context when emails and correspondence can be very lengthy. The use of the JCIO or an independent parallel body to deal with complaints in Wales would be an effective means of diverting the work away from the senior judiciary.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes – giving the Tribunals broad powers within which they can issue their own Practice Directions to reflect the culture and expectations of the jurisdiction is an effective means of ensuring a basic level of consistency but retaining flexibility.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes. Rules on remote hearings should be broad enough to accommodate future developments and structured so as not to be in any way restrictive. Simply stating that a hearing includes a hearing by video or electronic or other remote communication means would be sufficient without more. A statement of the Tribunal's own very broad power to regulate its own procedure should also be included to enable flexibility to accommodate the user's needs as well as the requirements of the relevant legislation.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. Depending on the timeline intended for implementation, it may be that two yearly reviews would ensure the growth and development of the service. Quinquennial reviews are too far apart to be effective in generating movement and change.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and

- b) 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?

The creation of a single entity, albeit with several Chambers, provides the opportunity to pool resources and ensure that the use of the Welsh Language is promoted and normalised. There are a number of Welsh speaking judicial office holders in several tribunals already who could be trained and cross ticketed to hear cases in other jurisdictions as the need arises. Despite the excellent facilities available for instantaneous translation, appearing before a panel who can speak Welsh is a significant boost to the user. There is the fear where translation facilities are used that something will be lost in translation – leading to the user often reverting to the use of English despite the fact that they may be able to express their case far better in Welsh.

Many members of the public still assume that English is the formal language of justice and business and will state that their Welsh “isn’t good enough” to function in a formal setting. Promoting the use of “normal” ie day to day colloquial Welsh in the relatively informal context of tribunal hearing should assist and promote the use of the language in formal proceedings by the general public. Ensuring that hearings are local and accessible should also build their confidence to use Welsh as the medium of communication.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

See above response to Q41

Question 43

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

Your name:

Organisation (if applicable):

Contact details:

Respondent X017

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes.

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?

Yes. We agree with the proposed structure of the Tribunal system.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes. We agree with the proposed structure of the members of Tribunals system.

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier tribunal for Wales?

Yes.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes. The VTW should be included in the new Tribunal Service.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes. The VTW should come under the supervision of the President of Welsh Tribunals.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes. We agree that the ETW should have jurisdiction to conduct exclusion hearings. Claims of disability discrimination arising from exclusions are already heard and decided by the Tribunal. The specialist expertise of our Tribunal Specialist Members mean that we are best place to make fair and just decisions which are independent of an individual School or Local Authority process. Appeals would all be managed under one set of Tribunal Rules ensuring a consistency of decision making across Wales which is based on the law. Exclusion should be the subject of judicial scrutiny given their importance to the children and young persons concerned.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No. We consider now is the time for admissions appeals to be included and removed from Local Authority decision making. There is an opportunity for all education decisions to be made by the ETW as an independent judicial body with specialist expertise across Wales. All Education appeals would then be under the one umbrella and be seen as fully independent, managed under one set of rules. There are several ways that this could be achieved such as admission appeals being heard and decided by a panel of three individuals made up of two lay members appointed by Local Authorities but chaired by a Tribunal Judge. Under the guidance of the Tribunal Judge, the appeal would be the subject of judicial scrutiny as the Tribunal would be responsible for training and support of the Admission Panel. Any appeal against the decision they make would be subject to appeal to the President or Judge of the ETW. This would ensure independent, fair and just decisions across Wales.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No. They should be included within the new First Tier jurisdiction with an appeal on a point of law to the Welsh Upper Tribunal. The First Tier should not be used as an appellate jurisdiction in this manner. This preserves the distinction between the First Tier Tribunal making factual findings and basing decisions on these and leaving the Upper Tribunal to consider errors of law. Otherwise, it produces a two-tier system where a person has two rights of appeal against a point of law, one to the First Tier Tribunal and a second one to the Upper Tribunal. This lacks clarity and complicates the new structure which should be avoided.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Assuming that it can be established as devolved law (as it is for children bringing disability discrimination claims), disability discrimination claims for young people attending Further Education Colleges should be brought within the jurisdiction of the ETW. Such claims currently have to be brought in the County Court. The County Court procedure involves the payment of fees and a far more "legalistic" approach.

With respect to the County Court, it also lacks the expertise of the Education Tribunal. The issues usually include education issues and the ETW is an expert Tribunal for education matters.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes, but this must be kept to a relatively short timescale such as 1 or 2 years. A longer period will cause confusion for all and be a barrier to accessing justice.

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes. Most definitely. It is an imperative step that needs to be clearly established in advance of the transfer of jurisdictional powers.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

The suggested list of the First Minister, Welsh Ministers, the Counsel General and any other persons discharging a responsibility as regards the new Tribunal Service would seem to be appropriate. It should include the duty to ensure members of the tribunals have the necessary level of support to enable them to carry out their functions (and not just to have regard for this). An under resourced Tribunal Service will not be able to carry out the functions required of it and the Welsh public would lose faith in it. It would offer a second-rate level of justice which would be failing the Welsh people. It is of vital importance that the Welsh public have full knowledge about, confidence in, and the ability to access the new service.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

It should be an Oath which is relevant and meaningful to modern Welsh society. It probably should not include any reference to the King or God as some will find this divisive or difficult to undertake.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Absolutely yes. It is essential.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a Non-Ministerial Department, or something else? Why?

It is essential that the statutory body is at least a Non-Ministerial Department, to emphasise independence from the Welsh Government. A totally independent body would be preferable. Civil servants employed in the Tribunal Service should be employed through the Tribunals Service directly to ensure continued independence and minimise any appearance of government interference or influence. This includes independence for identifying and administration of budgets. Where Welsh Government introduce legislation which has an impact on the work of the Tribunal then additional budgeting arrangements need to be made until review at the start of the next budgetary period.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

To preserve and demonstrate independence, it should be appointment of the President of Welsh Tribunals ex officio. This will ensure a truly fair and just justice system for the people of Wales.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

Care will need to be taken to tailor Regulations to the needs and work of individual Tribunals, as well as generic Regulations.

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this white paper?

Yes. It will not be possible for the President to function independently and effectively without such legislation.

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

No. There needs to be careful consideration of the appointment of Judges. They should not be an appointment of Welsh Government alone. Consideration should be given to an approach such as appointments to the Courts judiciary which are made by the King on recommendation of the Lord Chancellor and Lady Chief Justice. The Lady Chief Justice is not a political appointment but made by the Judicial Appointments Commission and is therefore independent of political influence. They could make the appointment along with the Welsh Minister. Such an approach will ensure consistency across all judicial courts and tribunal appointments, including non-devolved Tribunal. Without this approach, Welsh Tribunal Judicial appointments will become “second tier” and not attractive to quality candidates. It will also allow cross-ticketing of Judges to other parts of the Courts and Tribunal service in Wales. If the objective is to establish a robust and respected one-judiciary for Wales, then the appointment of Judges must remain part of a transparent and wider judicial appointments process at this time. We agree that the appointment of Lay Member or Specialist Members of the Tribunal should be appointed by Welsh Government. We are concerned that it is proposed the terms of employment, including remuneration, should be set by Welsh Ministers as this will enable a measure of control and influence on the part of Welsh Government. The fees/ salary rates paid to Judges and Members in the devolved Welsh jurisdictions must be the same as those in England and the non-devolved Welsh jurisdiction. Without this in place Welsh judicial appointments will be devalued and not attractive. They will be considered “second class”.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- a. except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals, and*
- b. Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.*

No. An independent Judicial Appointments body needs to be set up for Wales, starting with the Tribunals Service. Using the existing Judicial Appointments

Commission (JAC) does not promote the principle of a separate and independent Service for Wales, and in practical terms the JAC has become slow and inefficient with the appointments process taking many months, (and sometimes years.) This has made it difficult to respond flexibly to the workload of the Education Tribunal.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Diversity is important. Appointment should always seek the best qualified candidates who are then properly trained in relation to issues of diversity, discrimination and bias. The appointment process needs to be developed with specialist advice and experience of attracting and assessing candidates from a diverse and non-typical background. There must be an established outreach and mentoring programme to ensure potential candidates are supported to consider appointment to judicial roles in Wales over a period of time before they become eligible.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Current criteria for judicial appointment need urgent review and redrafting. Greater diversity within lawyers in Wales needs to be addressed and the appointment of those suitably qualified but from a non-typical background. This will increase the diverse pool of individuals from which appointments can be made.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

No. We are concerned at the proposal that the terms of employment, including remuneration, should be set by Welsh Ministers as this will enable a measure of control and influence to the part of Welsh Government. Pay and conditions need to reflect those in the non-devolved courts and tribunals. A commission to make judicial appointments without any possibility of Welsh Government or political influence is required.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes. It enables those who have been appointed to Welsh devolved tribunals to broaden their experience and development. It will promote career progression. It also allows the Tribunal administration to deploy judicial resources as the business case requires. Cross deployment of judicial office holders to non-devolved jurisdictions in England and Wales should also be made easier. This will ensure a healthy supply of good candidates with broad experience in all areas of Welsh justice.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes. If Wales is aiming to have a separate judicial system then to have the Lord Chancellor appoint the President of Welsh Tribunals is a backward step when there is an opportunity to achieve change now. An independent commission to recommend judicial appointments without any possibility of Welsh Government or political influence is required. The appointment should then be made by the Lady Chief Justice.

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes. A uniform procedure for dealing with complaints and discipline is required for both legal and non-legal members as well as the administration. The use of the JCIO, or an alternative independent body, is required.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. An independent body, or an independent part of the JCIO, needs to be established to investigate complaints.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in chapter 9?

Yes.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes. But care will need to be taken over this to ensure that the current Tribunals are still able to operate and manage cases effectively.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a. an overriding objective*
- b. a duty of the parties to cooperate with each other and the tribunal*
- c. provision for service of documents by electronic means*
- d. a power for the First-tier Tribunal for Wales to review its own decisions, and*
- e. rules on remote hearings.*

Yes. These are all essential for effective management of cases. We do not agree that service of document must only be by electronic means unless the Tribunal are able to make available electronic means to parties for this to happen. This will otherwise be a barrier to access to justice. There must always be a paper based alternative available to those who cannot or do not have access to electronic devices.

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. The overview and review function should be carried out by an overarching commission, as referred to in respect of judicial appointments and complaints above. It should be comprised of senior members of the judiciary working in Wales and have input from all service users in respect of the overview and review role. It should report to the WAG quarterly with any suggested changes/concerns.

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- i. on 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?*

We do not consider there will be a significant impact on the Welsh Language. Within the ETW there has always been a full opportunity for the Welsh language to be used at all stages in the process, and Welsh has equal priority with English. Users of the Tribunal rarely seek to conduct the proceedings in Welsh. However, Welsh is available and stated to be available to support an appellant or claimant's choice.

Question 42

Please also explain how you believe the proposed reforms 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.*

As stated above, we do not consider that the proposed reforms will have any significant effect upon tribunal users wishing to use the Welsh language, or that it will be given greater priority. As it is a matter for choice for each individual tribunal user, it is difficult to see how changes brought about by the proposed reforms, or other similar reforms, could change this except for emphasising the importance of Welsh devolved justice. The use of the Welsh Language is a cultural rather than legal issue. The ETW will continue to promote support and encourage the use of Welsh in correspondence and at hearings.

Question 43

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

We have a concern about how the new tribunal service is to be accessed by tribunal users. Our appellants and claimants are usually unrepresented. They will be disabled children or young people – or their families with caring responsibilities. If the Tribunal process is made over complicated and they consider that cannot use it, or are unwilling to do so because they are concerned about how they will manage proceedings on their own, then it will be a failure. It is vital, that proper funding for legal advice and representation is available. At present, there is a difference in legal aid rules, depending on which tribunal is appealed to. For example, legal aid is available for legal representation before the Mental Health Tribunal. Only Legal Help is available in the ETW which does not include funding for representation but for the preparation of a case. Even then there are few solicitors holding Legal Help contracts who are operating in Wales. In addition, our Over-riding Object as set out in the Education Tribunal for Wales Regulations 2021 require us to ensure that parties are on an equal footing procedurally and can participate fully in proceedings. Without an effective Legal Aid programme this will not be possible even for the most vulnerable applicants in person. A comprehensive, separate legal aid system must be developed in Wales to enable legal support and representation in cases brought to the ETW.

Respondent X018

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

In practice, yes. We note that the White Paper refers to a number of decision-making bodies - the Planning Inspectorate, NHS health care review panels, and Forestry Committees – which are not to be included and we are not convinced that these should not, in due course, be brought within the Welsh Tribunals system. But we accept that the system should be based initially on the S.59 bodies plus the Valuation Tribunal for Wales and schools exclusion appeals panels.

As far as appeals under the Regulation and Inspection of Social Care (Wales) Act 2016 are concerned, it is clearly anomalous that appeals relating to the devolved function of social care should, as at present, lie to the UK First-Tier Tribunal and we believe that the legislation establishing the new Tribunals for Wales should correct this by transferring these appeals to the new First-Tier Tribunal for Wales (FTTW).

We believe that in the interests of clarity and simplicity the first instance tribunal should be known as the Administrative Tribunal for Wales (“Tribiwnlys Gweinyddol Cymru”) and the appeal tribunal as the Appeal Tribunal for Wales (“Tribiwnlys Apêl Cymru”).

A new structure for Wales’ tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Yes. We believe however that the organisation of the First-Tier and Appeal Tribunals for Wales into chambers / divisions and the allocation of classes of cases between them should be under the control of the President of Welsh Tribunals, with concurrence of the Welsh Ministers (in view of the possible administrative and budgetary implications of changes) rather than the other way around. The UK system, when established, inevitably required a relatively rigid structure in view of the size of the pre-existing

tribunal landscape which it took over. In the case of Wales, a high degree of flexibility, informed by experience of operating the new system should be the guiding principle. The PWT should be able, by rules and/or practice directions, to establish or merge chambers and to allocate classes of work between them relatively simply.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes, although we believe that members of the UK Upper Tribunal should not become *ex-officio* members of the Appeal Tribunal for Wales but should have the status of being qualified to sit as members of the WAT on an *ad hoc* basis at the invitation of the PWT. We envisage that the Welsh Tribunals judiciary should develop its own *esprit de corps*, with its own training provision and of course its own disciplinary codes and this would be made more difficult if its membership were to be diluted by routine sitting by those from outside its number.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree that the jurisdiction of the Welsh Tribunals should be transferred to the First-Tier Tribunal for Wales.

Yes – other than school admission appeal panels which should remain under local authority control but with an appeal on a point of law only to the ATW (NB not the FTTW)

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes. Although the structure of the VTW is, for historical reasons, somewhat different from that of other devolved tribunals this does not reflect any difference in the nature of the functions which it discharges, which are clearly judicial. Special features of its jurisdiction will be reflected in the allocation of its work to an appropriate Chamber.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

N/A

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes. We accept that there is an intimate relationship between the demand for places in individual schools and the resources which a local authority is able to provide in order to meet those demands. This makes it sensible to retain local authority control over these panels.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

In principle there should be an appeal on a point of law to the Appeal Tribunal for Wales. In all other cases the FTTW will have jurisdiction in relation to both fact and law and the ATW in relation to law only. Logically, school admission panels should fill an equivalent position to that of the FTTW. We are however concerned about a possible unintended consequence of such an arrangement namely that where a pupil wishes to challenge the decision of a panel on a point of law or procedure it will no longer be possible, as it is at present, to seek judicial review in the courts. Since Legal Aid is available in relation to proceedings in the courts but will not be available (it appears) in relation to appeals to the Appeal Tribunal for Wales this could result in access to justice being reduced rather than improved. We therefore propose that the Welsh Government give careful consideration to the impact of an arrangement splitting jurisdiction over admissions appeals between local authority panels and the Welsh Appeal Tribunal before implementing this proposal.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes, although we prefer that the Chamber that will take over the work of the Mental Health Review Tribunal for Wales should be known as the “Health and Social Care” Chamber. This would both reflect the fact that Mental Health is essentially an aspect of health generally and would also enable the transfer of social care regulation appeals (see Q 1).

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Yes. Those relating to the occupation of leasehold / licensed property (eg those arising out of occupation contracts under the Renting Homes (Wales) Act 2016).

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes. Indeed we find it impossible to envisage any circumstances under which an appeal should go anywhere else.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate

legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

If, by “over time” any substantial delay in transferring jurisdiction is implied, we would oppose that. Once the Appeal Tribunal is established it would be a source of great confusion and inconsistency were some appeals to continue to go to the UK Upper Tribunal

We do not believe that it is necessary for the Appeal Tribunal to be organised into distinct chambers. Its jurisdiction will be confined to questions of law and should be able to consider legal questions with equal facility irrespective of the factual subject-matter.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales? w

The Scottish legislation imposes the duty to uphold the independence of the judiciary on:

- **the First Minister,**
- **the Lord Advocate,**
- **the Scottish Ministers,**
- **members of the Scottish Parliament, and**

- all other persons with responsibility for matters relating to the judiciary, or the administration of justice, where that responsibility is to be discharged only in or as regards Scotland.

With the exception of the reference to members of the legislature, we have no hesitation in concluding that the duty should be imposed on the equivalent persons (ie substituting references to the Counsel General, Welsh Ministers and responsibilities discharged only in relation to Wales.

We believe that the position of legislators calls for caution. Their position is not analagous to that of Ministers or civil servants, who exercise executive functions which could affect the independence of the judiciary. Senedd Members have legislative rather than executive functions and once they have enacted legislation they have no role in applying it. When legislating, they are also already subject to the constraint that they must do so in a way that is compatible with the independence of the judiciary. This follows from the fact that Acts of the Senedd are outside its legislative competence unless they are compatible with Article 6 of the European Convention on Human Rights, which guarantees to the citizen a hearing “by an independent and impartial tribunal established by law.”

We are not therefore convinced that to impose on Senedd Members a separate duty to uphold the independence of the judiciary adds anything to the duty to which they are already subject. To do so could, indeed, risk giving the impression of being a constraint on the Senedd’s legislative competence additional to those imposed by the Government of Wales Act 2006. We accept that a declaratory provision underlining the existence of a constitutional principle, binding on the legislature, which aims to safeguard the independence of the judiciary may be thought desirable. But it must be framed in such a way that it does not give rise to an additional justiciable constraint on the Welsh Parliament’s legislative competence which would at best duplicate the effect of Article 6 and at worst give rise to additional grounds of challenge to the competence of Senedd legislation.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

We assume that what is intended is that all Tribunal members should make a formal commitment (oath or affirmation) to impartiality (which includes independence). We agree.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

We think that the current judicial oath / affirmation should be expressed in modern language, eg “

“I swear [or solemnly, sincerely and truly affirm] that I will well and faithfully carry out the duties of the office of And that I will do so justly, impartially and independently, in accordance with the law.”

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

We would prefer not to use the expression “arms-length” since this is at best imprecise and at worst misleading - because in terms of budget, staffing and other resources there will inevitably be an unavoidable practical relationship between the Welsh Government and Tribunals Wales. But we believe that they should be distinct statutory entities so that the TSW will be legally independent of the WG.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

As an independent statutory corporate body similar to the Scottish Courts and Tribunal Service.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals *ex officio*?

Since the function of TW will be to support the judicial functions of the tribunals it should be under the ultimate supervision of the PWT as *ex officio* Chair of the Board.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- q) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- r) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes, except in relation to the appointment of Chamber Deputy Presidents. Since these are appointees whose functions are essentially to stand in for the Chamber President on a fairly *ad hoc* basis we do not feel that a high degree of formality in relation to appointment is needed. Appointment by the PWT after consulting the Chamber President would be more flexible and sufficiently formal.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for

Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

In principle yes. We believe that diversity is an essential feature of a Tribunal System which reflects Wales's population and commands their confidence. Ability is another such feature and careful wording will be needed when formulating the relevant criteria in order to ensure that neither takes precedence over the other.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes. The eligibility criteria should be set in such a way that qualifications for appointment are not unnecessarily high. If an appointment is appropriate, for example, to be opened to Chartered Legal Executives then they should not be excluded.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes. But they should be required to do so having first consulted with the President of Welsh Tribunals.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes, but subject to the current requirement that both the PWT and the Senior President of Tribunals agree in an individual case (in line with the answer given to Q3).

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

The President of Welsh Tribunals, as Head of the Welsh judiciary, should be appointed by His Majesty on the recommendation of the First Minister, made with the concurrence of the Lord Chief Justice. This would bring the arrangements for this appointment into line with those of the UK equivalent (the Senior President).

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. The legislation should be sufficiently flexible to enable JCIO or their nominee to investigate or for WMs to appoint some other person to investigate a particular case.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

We think that a rules committee of about 9 – 12 members, meeting regularly and needing considerable administrative support would be too cumbersome and bureaucratic. Rules should be made by the PWT, with the concurrence of the WMs and after consulting the Chamber Presidents and other appropriate persons, which should expressly include the various branches of the legal profession, industry and commerce, the third sector, etc..

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes. This is the current process for making procedural rules for the Welsh Language Tribunal and was followed successfully in making the current Welsh Language Tribunal Rules.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes, other than that the Rules should be made by the PWT rather than a rules committee.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes, other than (d). The experience of the Welsh Language Tribunal demonstrates that however narrowly this power is defined, disappointed applicants who are aware that they can ask for a review of an unfavourable decision are likely, however strictly the criteria are set in principle, to treat this, in practice, as an opportunity to re-argue their case instead of appealing – if there are proper grounds.

We do believe, however, that the Tribunal should have a power, of its own motion, (after giving parties an opportunity to make representations) to correct obvious errors which come to its attention.

We believe that the Rules should include an express objective of treating the two languages on a basis of equality.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. In our submission to the Law Commission we proposed the re-establishment of a body similar to the former Committee on Administrative Justice and Tribunals in Wales and we repeat that suggestion, with the remit of the Committee (which would be one of the statutory consultees in relation to Tribunal Rules) focused on the functioning of the Welsh Tribunals. It would not, therefore, be strictly limited to “administrative justice” because the work of the Welsh Tribunals already (and will increasingly) extend to non-administrative matters such as landlord and tenant disputes. Similarly, part of its remit would be to consider the relationship between non-devolved law and the Welsh Tribunal System. Its main focus, however, should be the effectiveness of the Welsh Tribunals.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

We believe the proposed reforms, which will create a unified system of Welsh tribunals supported by an independent Tribunal Service will be highly beneficial in its effects on opportunities to use the Welsh language and on the status of the language in tribunals. It will create new devolved Welsh institutions to whose operation the treatment of the two languages on a basis of equality will be integral.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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

- b) 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.

We believe that the Tribunal Rules should include an express objective of treating the two languages on a basis of equality.

In addition, appointments, to membership of the Welsh Administrative Tribunal will need to take account of the ability of the Tribunal to operate effectively in either language. The office of President of the Welsh Language Chamber will clearly require the office-holder to be bilingual. But the work of the Tribunal generally will increasingly involve the interpretation and application of bilingual legislation and may (as in the case of *Driver v Rhondda Cynon Taf CBC (2020)*) the ability to resolve issues of interpretation involving consideration of the meaning of the texts in both languages. Provision will therefore be needed for enough bilingual Tribunal members to be able to deal with such cases when they arise.

Question 43

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

We note some minor inconsistency of nomenclature. For the avoidance of doubt our preferred names of the new institutions are:

**The Welsh Tribunals / Tribiwnlysoedd Cymru
Administrative Tribunal for Wales / Tribiwnlys Gweinyddol Cymru
Appeal Tribunal for Wales / Tribiwnlys Apêl Cymru
Tribunal Service for Wales / Gwasanaeth Tribiwnlysoedd Cymru
(President of Welsh Tribunals) / (Llywydd Tribiwnlysoedd Cymru)**

Your name:

Keith Bush KC (*Honoris Causa*) (on behalf of Wales Public Law and Human Rights Association)

Organisation (if applicable):

Wales Public Law and Human Rights Association

(NB: Please note that the views expressed do not necessarily reflect those of any individual or organisation affiliated to the Association.)

Contact details:

Respondent X021

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Yes.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes, but this is the second best option.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No. We believe that school admission appeal panels should be transferred to the First Tier Tribunal – there have been issues with consistency of approach and decision making for many years in this jurisdiction. We accept that due to the scale of the operation it may take longer for school admissions panels to transfer than exclusion panels but we believe the decision to transfer in principle should be taken now.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

We believe that this is a good time for a systematic review of the whole range of powers and services delivered in Wales to establish whether additional rights of appeal to the new system should be instituted. We believe that housing may be one area where this may apply.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes. A clear timetable should be set.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Yes. All those listed in Paragraphs 88 and 90.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Something along the lines of the example in paragraph 94 would suffice.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes. We believe very strongly that this is the fundamental principle upon which rest all of the other reforms in the White Paper.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

Non Ministerial Department

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Welsh Minister's Appointment

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

There does also need to be an oversight body with the role of keeping the work of the new tribunal under review from the point of view of the user. See also Q 40.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- f) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals;
and
- g) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes. Amongst the terms and conditions of members there should be a requirement for annual training and three yearly appraisals.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Change is not necessary at the moment. If the whole legal system in Wales were in time to be further devolved that would be the time to change these rules.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes,

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. The Judicial Conduct Investigations Office could well be asked to perform this role.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes. We believe they should also include a statement of the principles of administrative justice to provide context to the rules.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. This requires an independent body with a brief to review the way the whole system works for its users, similar perhaps in role to the AJTC's Welsh Committee or the Committee for Administrative Justice and Tribunals in Wales (CAJTW). Our collective experience over many years was that independent observation was an invaluable and indeed indispensable route to continuous improvement from the user's perspectives. We therefore urge that such arrangements should be reinstated in some effective form.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

-

Question 42

Please also explain how you believe the proposed reforms could be formulated or

changed so as to have:

- a) 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
- b) 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.

Question 43

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

We believe that for these reforms to fully work in the interests of the people of Wales there also needs to be: • ongoing academic research at centres of excellence in Welsh universities; • improvements to original decision making; • better awareness of the principles of administrative justice by all decision makers and administrators in Wales; and • an effective but distinct human resources function as part of the new tribunal.

Your name:

Professor Sir Adrian Webb, Bob Chapman, Gareth Lewis & Rhian Williams-Flew

Organisation (if applicable):

Former members of the “Committee for Administrative Justice and Tribunals Wales” and the “Administrative Justice and Tribunals Council’s Welsh Committee”.

Contact details:

Respondent X024

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes. We agree with paragraph 25 of the White paper that Social Care Wales is not a tribunal.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?

We think that the proposed name, "First-tier Tribunal for Wales", should be reconsidered, for a number of reasons:

- It is apt to cause confusion with the existing First-tier Tribunal. Adding the words "for Wales" is unlikely to remove that confusion, as the existing First-tier Tribunal sits and exercises its jurisdiction in Wales;
- The words "First-tier" are unnecessary. Given that the proposed appellate tribunal's name indicates that it will have an appellate function, we see no need for the tribunal that exercises a first instance jurisdiction, to spell out that fact in its name. There is no suggestion that, for example, anyone finds the name of the Employment Tribunal confusing, because it is not named the "first-tier employment tribunal";
- A name that is distinctive from the existing Anglo-Welsh tribunal system will indicate better the distinctly Welsh identity of the Welsh tribunal.

A number of options exist: Our preferred option would be the "Welsh Tribunal". Others might be, "Devolved Tribunal for Wales", "National Tribunal for Wales", or "Administrative Tribunal for Wales".

We are unpersuaded of the need or appropriateness of dividing either tribunal into chambers.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Legally-qualified members of the tribunals, appointed as such (as opposed, for example, to someone appointed as a lay member who happens to be a lawyer) should be called “judges”. This would make for consistency across the tribunals before whom Welsh people may have business, and would underline the authority of the new tribunals.

We think that the default position should be that each tribunal panel should be chaired by a judge. Very good reason should be required for any deviation for this. It is not satisfactory for a tribunal composed entirely of lay members to have a legal adviser. The adviser may advise, but the tribunal must be free not to follow an adviser’s advice, otherwise the adviser becomes, in effect, a member of the tribunal. It is more consistent with the tribunal having proper authority, and exercising its role of determining questions of law where required to do so, for a judge to preside.

The tribunal will exercise legal powers. It will determine questions of law, as well as fact. Although lay members may need to be able to vote on questions of law (not least because of the difficulty in separating them from questions of fact), they will, no doubt, pay very close attention to the judge on questions of law. As chair, the judge will be able to assist their colleagues, whilst respecting colleagues’ right to reach their own conclusions. This is more satisfactory than a legal adviser, who will not be a judicial officer, reaching a position on legal questions and then advising panels.

However, if a tribunal cannot be presided over by a judge, we consider it absolutely essential that it have a legal adviser. Without that, we cannot see how it could possibly reach sound conclusions on legal questions, and the public’s confidence in the tribunal would, no doubt, diminish.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes, but it should be transferred.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No, it should also be transferred to the jurisdiction of the First-tier Tribunal for Wales.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

We commend a dedicated appeals route and process. Presently there is no dedicated appeal route. Complaint is presently made via complaint to the Public Services Ombudsman for Wales, or by way of Judicial Review. This process is unwieldy, unclear and consumes too much time at a stage when given the nature of the decision being questioned, time is of the essence. It is vital that a regulated procedural structure is created but it must be such that it is readily accessible and understandable by the lay person as it is noted that complaints about these decisions are usually brought by carers/parents without legal representation and can be brought by young people themselves. This process must not exclude those whom it is actually designed to protect and serve.

We disagree that the grounds of appeal should be limited to a point of law; the grounds of appeal should be in both fact and law. The decision would be a re-decision. As most parents/carers are not legally represented it is unfair to limit an appeal to points of law which they may not be able to present. We commend that the jurisdiction of school admissions appeal panels should be transferred to the First Tier Tribunal and only then should the route of appeal be limited to a point of law to the new Appeal Tribunal.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

We agree that, as a guiding principle, disputes deriving from Welsh law should be heard in a Welsh judicial institution.

However, there are areas in the paragraphs preceding question 11 with which we significantly disagree. We address these when dealing with question 15 below.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

A unified structure, if it were adopted, would encompass a wide number of tribunals, some of which are unique to Wales, such as the Welsh Language Tribunal. The need for mechanisms which address these specialist or unique jurisdictions with redress being approached on a Wales basis when determining appeals would naturally be by the proposed unified Welsh tribunal. Further, the siting of the tribunal in Wales would ensure expedition concerning appeals emanating from Wales. A streamlined and cohesive approach is therefore commended.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes. It naturally follows that the creation of a specialist appellate court will mean legal authority on a case basis will develop with judgments being published and made available. This draws together the hitherto ad hoc approach into a more coherent and accessible form, the essence being the simplification of judicial decision making which will lead to efficiencies earlier in the system, particularly when giving early legal advice.

In considering this option, concern has been expressed as to the source of judicial manpower. We anticipate no such problem. There is the ability, as is recognised in the Consultation Paper, to make use of the practice of cross ticketed judiciary. This is tried and tested and recognises the breadth and depth of the judiciary. There is therefore readily available a cohort of Judges. There is a need now to take this

opportunity to correct the previous deficiencies and encourage and promote good practice. A specialist Appeal tribunal would address all of these concerns.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Regarding the proposal for routes of appeal to be introduced “gradually”. We recognise that appellate jurisdictions are always subject to ongoing reform and modification. However, we are concerned that the proposed staged approach could be a recipe for confusion, as different appeal routes would exist at different times. There is also a risk that, if certain appeal routes are put off to some later date, that date will be put back, and put back again, perpetuating that confusion.

Another risk, in addition to confusion, is that the Welsh appeal route will take a different approach to legislative interpretation to other routes.

The better approach would be to introduce the proposed appeal tribunal, with its full jurisdiction and proper designation of routes of appeal, at the same time. Even if this means that the start date is later than it might be for some parts of the jurisdiction, this would reduce the potential for confusion, for divergent approaches to interpretation, and would be constitutionally neater.

We are doubtful about the assertion that “*initially, the workload of the Appeal Tribunal for Wales may be such as not to need distinct chambers.*” We now question whether a chambers system is necessary at all.

On the one hand, the Bar Council's March 2021 response [https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2021/12/034-Bar-Council_Redacted.pdf] to the Law Commission's "Consultation on Devolved Tribunals in Wales" stated on paragraph 12 that the "division of the First-tier Tribunal for Wales into chambers would recognise the very different jurisdictions encompassed by the whole and should permit for the development of judicial expertise and distinct procedural rules, within each."

On the other hand, a chambers structure creates a risk of silos. One of the functions of the appellate tribunal should be to help ensure a consistent approach to legal questions. The risk of silos is, we now consider, too great to outweigh any benefit that a chambers structure may bring. Division into chambers would bring with it the risk that, even if the rules are the same, different practices or cultures will develop. It would bring the risk of potential confusion over which chamber had appellate jurisdiction in a particular case. It would bring a risk that chambers would decide legal questions without the broader perspective that a non-chambers structure would bring. It may also be more attractive to potential judges to sit in a wider range of cases. The (Anglo-Welsh) Court of Appeal does not sit in chambers, and experience has not shown this to have any inherent disadvantage compared to a chambers structure.

A proper appeal tribunal should be established, with its full jurisdiction, at the outset, with an identified start date.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Leadership judges, and any other judge who has administrative responsibilities, should be subject to a duty to uphold independence. We consider that this is a different responsibility to those judges' responsibilities to act fairly when they are sitting. It should be clear that they are under a duty to uphold the tribunals' independence when exercising their administrative responsibilities, in addition to when sitting.

We see difficulty in imposing this duty on members of the Senedd.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Yes. A modern form of words should be adopted which is easily understandable to members of the public in Wales. We suggest something along these lines:

I, _____, do solemnly swear/affirm that I will faithfully and impartially discharge and perform all of the duties incumbent upon me as _____ so as to uphold the rule of law, support access to justice, administer justice fairly, and do equal right to all persons, according to the best of my abilities and understanding.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes. However, we are concerned by the reference to income from fees under the heading sources of funding. Access to justice should not be dependent upon a person's financial resources. If there are fees these should be kept to the absolute minimum, so to not impose on access to justice. For example, when in the Employment Tribunal fees were introduced, the Supreme Court struck this down for access to justice reasons in *[2017] UKSC 51, R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent)*.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

We hold no firm view on this but as in relation to Q22 below, the primary consideration must be the perceived and actual independence of the judiciary working in the Welsh Tribunals and of the system of justice they administer.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

The President of Welsh Tribunals ex officio. We agree with the position expressed by Sir Wyn Williams in his evidence session to the Legislation, Justice and Constitution Committee, on 13 March 2023, that this will, in perception terms, ensure that independence is preserved, and give the public reassurance that the administration of Welsh Tribunals is in fact independent of the Executive which is likely to be a party to many of the disputes before those Tribunals.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No comments.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

The principles identified are not objectionable, but are not sufficient. We think that:

- A deep understanding of Wales;
- Evidence of a deep commitment to Wales, and;
- A deep commitment to the delivery of justice in Wales;

Should all be included in guiding principles.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- s) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- t) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes. However, as stated above, persons appointed must have a commitment and deep understanding of justice in Wales. By diversity we think it should be as it is reflected in the Welsh community, recognising in addition to groups with protected characteristics under the Equality Act 2010 that Wales has implemented the socioeconomic duty, and has legislation ensuring the wellbeing of future generations, as well as legislation protecting children and young people's rights and disabled people's rights.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

No.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

We are concerned that the proposals for dismissing members of the tribunal are insufficient to safeguard members' independence properly.

The proposal that members of the first-tier tribunal be dismissable by the President, and members of the appellate tribunal by the President and the First Minister jointly (or the First Minister alone in the event of disagreement) are unsatisfactory for the following reasons:

- In principle, members of the first-tier tribunal, who will be the primary fact-finders, should enjoy the same protection for their independence, as members of the appellate tribunal;
- The decision to dismiss a member of the judiciary is very serious. It should therefore be taken after a process that both underlines the seriousness of the decision, and minimises the risk of it being taken for other than wholly proper reasons. The question that should be asked is, would the system provide satisfactory protection of judicial independence in the (hopefully hypothetical) case of the First Minister being unsympathetic to the very notion of judicial independence?;
- In principle, the decision to dismiss should not be in the hands of one person, be that person the President or the First Minister;
- In principle, in the event of a disagreement between the First Minister and the President, to allow the former's view to prevail would increase the risk of dismissals being politically motivated;
- In the event that a properly-investigated complaint leads to a conclusion that dismissal would be appropriate, that decision should be subject to confirmation by a qualified majority of the Senedd. By way of comparison, dismissal of the senior judiciary in England & Wales is by a motion in both houses of the UK Parliament. The Senedd being a unicameral body, to allow

dismissal by a simple majority would allow the governing party to approve a dismissal. We consider that a decision to dismiss is likely to be justified only where it commands a significant, cross-party majority in the Senedd. A qualified majority, such as that required by the US Senate to convict on impeachment (2/3 majority), would be an appropriate safeguard;

We therefore consider that the proposals would provide inadequate protection for judicial independence, and should be strengthened.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

It should be the Judicial Conduct Investigations Office.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes, we agree that it should be kept under review. The Thomas Commission included a detailed consideration of all available evidence and came to rational evidence-based recommendations, a similar Welsh based process should be adopted.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

The Bar Council defers to the Welsh Language Commissioner who will have more evidence and expertise in this area. The provisions of the Welsh Language Act 1993 regarding the equal status of Welsh and English in the courts and tribunals of Wales will apply.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

The Bar Council defers to the Welsh Language Commissioner who will have more evidence and expertise in this area. The provisions of the Welsh Language Act 1993 regarding the equal status of Welsh and English in the courts and tribunals of Wales will apply.

Question 43

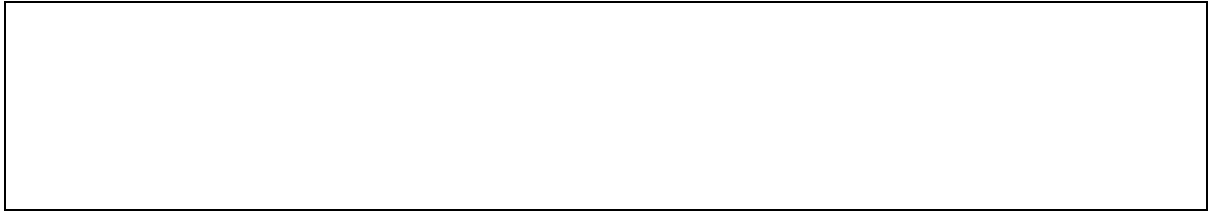
We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Your name:

Organisation (if applicable):

The General Council of the Bar of England and Wales (the Bar Council)

Contact details:



Respondent X025

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Yes I agree with the First tier Tribunal for Wales organised into jurisdictional based chambers.

In terms of the consultees mentioned in paragraph 42, the compulsory consultees should be the Chamber Presidents, Deputy Presidents and other members of the FTT for Wales/Appeal Tribunal for Wales and the PWT. Whilst consultation with others and users will be welcomed it should not be compulsory.

I agree with the need for flexibility so that changes can be made to chambers etc as proposed.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes.

I agree with the membership for the chambers as set out in paragraph 49(a). I also think that it is important that consideration is given to making the leadership roles salaried, and that there should be salaried judges within the devolved tribunals. Judges are all capable of being trained to be cross-ticketed to sit in other chambers if it was felt that there was insufficient work to occupy them full time. Each chamber should have a deputy president irrespective of the number of applications. This enables there to be

experienced cover in place for continuity purposes in the event of unexpected absences/illness/death of any incumbent President.

I also agree that there should be an Appeal Tribunal for Wales but that at present it should only deal with appeals relating to matters of Welsh law that do not exist in England. For example, on matters arising from the Housing (Wales) Act 2014 or the Renting Homes (Wales) Act 2016. Much of the jurisdiction of the RPT/LVT is the same as the equivalent First tier Tribunal England Property Chamber. There is considerable expertise and a substantial body of judgments relating to LVT matters in the Upper Tribunal in England, currently binding upon the RPT/LVT for Wales, and very careful thought needs to be given as to how any Welsh Appeal Tribunal would exist in tandem with the English UT notwithstanding the proposal in paragraph 49(b)(ii) in relation to existing members of the UT in England being cross deployed.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes, such a move is entirely in keeping with the proposals of the Law Commission and the Thomas Commission to broadly unify the system of administrative justice in Wales. The Law Commission and the White Paper identify practical obstacles and differences in the current operational processes of the VTW compared to the devolved tribunals, but in fact, I believe that future VTW members should be fee paid to reflect the job being done.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Yes- as noted above I support the jurisdiction of the VTW being transferred to the FtT for Wales but if this doesn't happen then I agree for the reasons set out in the White Paper that it should be subject to the PTW's supervision.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes, for the reasons outlined in the White Paper.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No. Whilst this is not my area of expertise, my earlier comments about the need to properly fund a salaried judiciary are relevant here. The fact that inevitably such appeals relate to local knowledge and seasonal peaks should not in my view prove to be insurmountable obstacles (and in fact give an element of predictability for case management and resource purposes) and I believe that admissions appeals panels should be incorporated into the Education Chamber.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Yes, if admissions panels remain outside of the jurisdiction of the Education Chamber of the Welsh FtT.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Provisionally yes, although in practice the ALT and the RPTW deal with completely different matters and consideration ought to be given to an Agricultural Chamber that might better suit the ALT and be better placed to receive any future chambers and laws pertaining to agricultural issues in Wales.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

There are currently matters under the Renting Homes (Wales) Act 2016, which could be dealt with by the RPTW, e.g under sections 87 and 110, compensation for failure to provide written statement etc, section 14, review of notice and section 100, specific performance for breach of a landlord's repairing obligation and obligations to keep a dwelling fit for human habitation. The RPTW is particularly suited to determining such matters owing to the presence on the panel of an expert surveyor member.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes, but see my answer to question 3 above.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes.

Regarding the comments in paragraph 83, the existence of expertise and a body of law in the Upper Tribunal would presumably be considered to be exceptional reasons for keeping decisions about, for example the right to manage, breach of covenant, enfranchisement and collective enfranchisement, service charges etc within the UT.

With regard to the comments in paragraph 83 about the 'attractiveness of roles' within the Appeal Tribunal for Wales, this should not be determinative or arguably a factor at all, and in fact although the White Paper is concerned about different appeal routes undermining the coherence and accessibility of the system etc, there is a far greater risk of this happening if the ATW is determining matters that are also within the jurisdiction of the UT in England. If the ATW makes different decisions to those made by the UT in England then this will have considerable practical implications and be far more likely to undermine the system.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes subject to the caveats previously expressed.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

All devolved tribunal members/judicial office holders, and those mentioned in paragraph 88 and 90 (including the civil servants - “all those with responsibility for the administration of justice as that applies to the reformed tribunal system..”). It is important for members of the Senedd to be aware of the duty outlined in paragraph 89, and to be subject to it.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

I am agnostic on this and do not see it as a ‘need’ as such- the pros and cons are articulated in paragraph 93 and terms and conditions of appointment can cover it.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

If adopted, then the formulation proposed, with the ability to affirm, is acceptable although 'this realm' could be replaced with 'Wales' (which would in any event cover Westminster legislation that is also applicable in Wales).

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes, strongly agree.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

Non-Ministerial department for the reasons given by the Law Commission and Thomas Commission.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

President of Welsh Tribunals.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- u) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- v) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes, but it is important that this change to appointments, if accepted, sees Welsh tribunal members as equal to Ftt colleagues in England for cross-ticketing purposes both ways.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes, but this is the present position with regard to current appointments to Welsh tribunals overseen by the JAC.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Paragraph 143 cites the Thomas Commission and the reference to the people of Wales having a system that meets their specific needs and takes into account demography, geography, diversity and equality. Strong consideration needs to be given to whether the appointment system gives a weighting in favour of those who live and work in Wales and thus have greater knowledge of demography and geography in Wales. The criteria should be such as to not interfere with cross-ticketing and so that Welsh tribunal appointments are treated equally to those in the FtT.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes, but doubtless strong regard will also be had to the approach in England so that there is parity and appointments, salaries, terms and conditions are not seen to be inferior to those in the English FtT.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes, and preservation of Cross ticketing with FtT England both ways. It should be explicitly possible for a single member to be cross-ticketed without the need for a formal expression of interest exercise to build in flexibility and speed.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Yes, it should be as a result of a Welsh appointing authority as suggested in the White Paper.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes. I would like to see the outcome of the exploration of other options mentioned in paragraph 166 before committing to a choice.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes, but if members of the committee are not salaried then they should be fee paid pro-rata for their time as well as for their expenses.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes but these might in practice be confined to overriding objective type matters such as those set out in paragraph 189 since the operation of the tribunals and their needs, are very different.

There should definitely not be one document for all the tribunals. There should be a separate set of rules for each tribunal even if it repeats some of the common rules. The users of the tribunals and their needs (not the needs of the tribunal members) should be of paramount importance in drafting new rules. A review power would be of use and is supported.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. Through a body chaired by a senior judge as recommended by the Thomas Commission.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

The RPTW currently treats Welsh and English equally and encourages the use of Welsh. Opportunities to use Welsh are currently clearly available and promoted.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

As above for question 41.

Question 43

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

Your name:

Richard Payne

Organisation (if applicable):

**President
Residential Property Tribunal for Wales**

Contact details:

Respondent X026

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

The Local Authority is conversant with the Education Tribunal for Wales and its legal processes.

The school exclusion panel being encompassed in this set of proposals is positive given the increase across Wales within this agenda post pandemic.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

The changes will be welcomed if it provides better judicial leadership, with clearer processes, and procedure rules – the Vale of Glamorgan is already seeing this in the ALN EW Wales under their new President.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

The addition of an Appeal Tribunal for Wales chamber, as the appeal venue, if it leads to greater 'access to justice' could lead to resource implications. Currently on appeal to ETW if permission is granted, cases go on to the Upper Tribunal but they are few and far between. At this stage it is too early to say what impact this might have. Part of the reform would see the introduction of procedure rules which when made would need to be consulted on beforehand.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

In relation to the Devolved Tribunal's within scope, Annex 3, and in considering the Law Commission's recommendations it is envisage the only matters which might apply for Education is the impact, if any, on resources, in relation to any changes made in respect of the ETW, the majority of which from a legal practice/court user perspective are positive, and if introduced would lead to the formation of an Education Chamber, which doesn't currently exist. In theory this should streamline the process and improve the LA's interface with the Tribunal.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

The exclusions panel should become part of the first tier. Given the increase in incidences of these panels post pandemic, a more robust process with greater scrutiny of decision making is essential.

In terms of school appeals we agreed with the proposed transferral to the Tribunal, due to the potential benefits of having a more unified, consistent and transparent process and means of decision making in an area which has a serious impact on the children involved and their future education and attainment. However, it should be noted that we do not

have many of these in the Vale of Glamorgan but other Councils may and the concern here would be potential delays in processing.

It is noted that School Exclusion Appeals and School Admissions Panel appeals are within scope but are not 'Welsh Tribunals' under s.59 of the Wales Act 2017 so the primary legislation would need to be amended. The Law Commission recommend that school exclusion appeals should be transferred to the Education Chamber of a First Tier Tribunal for Wales, but not the school admissions appeals panels.

School Exclusion Appeals conversely have fewer appeals so if they are consolidated within the Education Chamber are unlikely to place a burden on the 'system', and LA's, in fact it would lessen the burden on schools and GB's, whereas the school admission/admission appeal process has a shorter timescale, with the argument for impartiality and neutrality via a tribunal process in relation to school exclusions appeals likely to be a consideration particularly in relation to pupils who have been subject to more than one exclusion and are hard to place. The human rights implications and outcome for the pupil is likely to be greater in relation to school exclusion appeals decisions than school admissions appeals.

It noted that transfer to the new system would require changes to the primary legislation, the Education Act 2002 and the 2003 Regulations as amended, and the SSFW Act 1998 and statutory Code, 2013 and 2022 in relation to school admissions appeals.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

We agreed with this proposition, although we considered there would be, as with school exclusions, benefits to the school admission appeal panels eventually transferring to the First-tier Tribunal for Wales. As with the exclusion appeals, there could be potential advantages in doing this due to having a more unified, consistent, robust, impartial and transparent process and means of decision making for admission appeals.

However, consideration also needs to be given to the challenges around transferring both exclusion and admission school appeals to the tribunal system, i.e.

In particular, in relation to school admission appeals, the very likely possibility of significant delays in the processing of appeals for admissions to schools for all sides i.e. parents, admission authorities and schools. Greater centralisation of the appeal and decision-making process may make it too detached from local knowledge and considerations concerning local schools. Therefore consideration would need to be made as to the make-up of the tribunal when hearing appeals.

Possible stricter 'filtering' of appeals may mean parents being unable to make appeals or the tribunal system would need either further resources or support from Local Authorities to address demand.

Also, what will be the future role (if any) of Democratic Services should these appeals transfer to the tribunal system, as well as that of the Admissions Team and Legal services in terms of school appeals and exclusions?

Possible impact on finances and resources for Education and Legal services in VOGC, as well as for parents (i.e. would they need to hire legal representation when making an appeal for a school admission or exclusion at the Tribunal?).

The Law Commission recommend that school exclusion appeals should be transferred to the Education Chamber of a First Tier Tribunal for Wales, but not the school admissions appeals panels, the latter is recommended possibly because of they are more common than school exclusion appeals and as a result if they become part of the Education Tribunal, the following would result:

- A slowing down of the appeals process
- Additional cost to the LA given the number of appeals
- Local knowledge and expertise of panel members
- The ability to hold appeals in neutral venues
- The variation in responsible bodies depending on category of school
- Ability to pool resources with other neighbouring LA's
- The ability to make a fresh or new application

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

We felt more clarity is needed as to what this means. For example, would this mean, that the Education Chamber of the First-tier Tribunal for Wales would adjudicate if issues were raised around the legality of a school appeal panel and the decision made? Would this replace the current ombudsman system or be an additional 'layer' or 'tier' above it in terms of a right to appeal by parents?

We are also aware that under the code there was a role for The Administrative Justice and Tribunals Council (AJTC) to observe appeals but this was abolished in 2013 and we cannot recall any observations being undertaken in the past. It is accepted that there probably needs to be a more localised (Wales) oversight other than the Ombudsman and Judicial review.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

The changes will be welcomed if it provides better judicial leadership, with clearer processes, and procedure rules.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

This would be in line with the Welsh Language Bill and WESP Planning.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

With reference to the three areas relating to education (ETW, Exclusions and Admissions). ETW has a Tribunal Structure, it is considered that Exclusion disputes would be well managed in a Tribunal systems, and for the reasons previously outlined the Admissions are not currently transferring to the Tribunal.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Currently on appeal if permission is granted, cases go on to the Upper Tribunal but they are few and far between. At this stage it is too early to say what impact this might have as part of the reform.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes. Please see the comment above.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Suitably qualified and experienced education professionals with current educational skills and knowledge and a wide understanding of ALN and Health needs.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Yes

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

An affirmation is preferable as it allows for multi-faith and no-faith.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

Yes. A Government Sponsored Body enhances the Tribunal's position and ensures that they have a voice within the Senedd.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

The President of Welsh Tribunals ex officio to avoid any political connections.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

We feel there should be different presiding judge for the Appeal process.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

In principle we agree enhancing the leadership powers. We would like to see more details around individual powers.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- w) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals; and
- x) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Clear and consistent guidelines and nomination system should sit alongside the President Appointment Authority.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes, we strongly agree.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Yes

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Yes, strongly agree.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Yes

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

We think the process should be reviewed regularly.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

In principle yes, but would expect more than one person to be involved in the process.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Yes, we like the wider scope of the committee membership.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Yes. We are pleased the consultation recognises the individuality of different areas.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Yes, we agree.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes. Using a collaborative approach from a diverse cross-section of society.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising

of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Use of Welsh Language as set out in the Welsh Language Bill requires opportunities for people to use the Welsh Language and to treat it no less favourably.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

The availability of document in both languages and Welsh Speaking Tribunals will be beneficial.

Question 43

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

Your name:

Vale of Glamorgan Local Authority

Organisation (if applicable):

Vale of Glamorgan Local Authority

Contact details:

Respondent X027

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

We agree.

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

We agree.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

We agree.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

We agree.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

We note the approach outlined in para. 57 that ‘ the VTW’s current model for adjudicating on disputes could be carried into the First-tier Tribunal on its establishment and the need for reform of it could be considered in time as part of the ongoing development of tribunals justice in Wales. But we will need to work through the issues to determine if any negate the proposed transfer of the VTW into the new tribunal system or suggest it might better happen at a later stage.’

We further note the approach in para.58 that ‘ If the jurisdiction of the VTW was not transferred to the new tribunal system on its establishment, and ahead of its future transfer into the structure, the Law Commission recommended it should nonetheless be subject to the supervision of the President of Welsh Tribunals who we propose will have new statutory duties and functions.’

The Valuation Tribunal currently works well in terms of its composition and cost-free access to an independent system of adjudication. We would support the transfer of VTW to the First-tier Tribunal if the current ease of access to justice and the cost-free nature of that access can be maintained. Otherwise, Tribunal users might question the benefits of such a transfer.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

We agree.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

We have no specific points to make in response to this question.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

We have no specific points to make in response to this question.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

We have no specific points to make in response to this question.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

We agree.

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

This would be appropriate.

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

We have no specific points to make in response to this question.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

We agree but would draw attention to the points re ease of access and cost-free nature of access made in response to Q5.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

We agree but would draw attention to the points re ease of access and cost-free nature of access made in response to Q5.

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

We agree.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

We agree.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

We have no specific points to make in response to this question.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

This would be appropriate.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

We have no specific points to make in response to this question.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

We agree but would draw attention to the points re ease of access and cost-free nature of access made in response to Q5.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

We have no specific points to make in response to this question.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

We have no specific points to make in response to this question.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

We have no specific points to make in response to this question.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

We agree.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

We agree.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

We agree.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- y) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals;
and
- z) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

We agree.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

We agree.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

We agree.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

We agree.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

We agree.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

We have no specific points to make in response to this question.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

We agree.

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

We agree.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

We agree.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

We agree.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

We agree.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

We agree.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal

- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

We agree.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

We agree that these aspects should be kept under review as a matter of good practice but have no specific points to raise regarding the method to be adopted.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

We have no specific points to make in response to this question.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

We have no specific points to make in response to this question.

Question 43

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

We have no specific points to make in response to this question.

Your name:

Organisation (if applicable):

Institute of Revenues, Rating and Valuation

Contact details:

Respondent X029

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Yes

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

We agree with the paragraph 37(a), namely a First-Tier Tribunal for Wales and with 37(b), the proposed Appeal Tribunal for Wales.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Yes, although further clarification is required in respect of the Appeal Tribunal for Wales, specifically in relation to composition and the duty to consult. Concerned has been raised on MHRTW that the 'tribunal users' to whom this refers are (by definition) extremely unwell and may feel pressurised to engage with the consultation process.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Yes

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

No view on this.

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

No view on this.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

No view on this.

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

No view on this.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

No view on this.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Yes

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

No view on this.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Yes

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate

legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Yes.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes.

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

The Welsh Government ought to establish the role of a Minister for Justice, as part of the 'front bench' ministerial team. This role should be considered not just in administration for the reformed tribunal system but also as a step in the extensive preparation for the eventuality of devolution of justice.

The Minister for Justice ought to have a ministerial budget, a development and delivery plan and be supported by enough civil service staff.

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

If such an oath or affirmation would assist with members' ability to cross-ticket to HMCTS, this would be of benefit.

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

The oath or affirmation should be the same formulation applicable in HMCTS.

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Yes.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

This should be constituted as a non-ministerial department in accordance with the recommendations of the Law Commission and the Thomas Report, which followed detailed consideration of the matter.

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

It should be the President of Welsh Tribunals ex officio.

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

No comments to make.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes.

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Yes.

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes.

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

- aa) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals;
and
- bb) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Yes, provided this does not hinder members' ability to cross-ticket to other jurisdictions.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Appointments made by the JAC are already subject to an assessment of diversity, which should be considered alongside any requirements of the President and Welsh Ministers to avoid divergence.

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

The criteria must be the same as comparative jurisdictions. Should the criteria differ, the ability to cross-ticket will be compromised. The method of selection has not been specified.

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

The terms and conditions of appointment should be the same as comparative jurisdictions to preserve members' ability to cross-ticket.

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

There is not currently a system of cross-ticketing available to non-legal members. There should be an extension to include all members.

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Appointments should retain parity with other senior judges to ensure credibility within the judiciary.

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Yes

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Yes, it should be the JCIO.

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Yes.

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

We consider this proposal to be an overly elaborate means of updating procedural rules. In practice, the TPC would only be dealing with provision of service of documents and rules on remote hearings (para 189 (c) and (e)). The remaining matters (para 189 (a), (b) and (d)) remain relatively static. As such, we would consider that there would only be a necessity for the TPC to meet as and when required.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

No. Please see the response to Q 36 above.

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Please see the response to Q 36 and Q37 above.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

We support the President of Welsh Tribunals in introducing changes to current Rules and retaining this power in the event that a TPC is introduced.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Yes, by the Law Council of Wales, chaired by Lord Lloyd-Jones, to ensure the inclusion of a wide source of participants, including academics.

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

There is no reason to consider that there will be any difference, given that the opportunity for people to use Welsh is already actively encouraged within MHRTW and there is no suggestion that the Welsh language is treated any less favourably than English.

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Please see the response to Q 41 above.

Question 43

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

In the landscape where the devolution of justice to Wales is seen as a possibility, it is vitally important that the reform and administration of tribunals moving forward is seen as a resounding success. The case for the devolution of further justice powers can be built only if the areas in which the Welsh government holds current responsibility (such as tribunals) are actively seen as sustainable, thriving and successful.

In the process of tribunal reform, the Welsh Government must consider the public's understanding of the systems and the educational communication output once both during and after the reform of the tribunal. This could form the basis of a wider public educational programme on the justice system in Wales.

Your name:

The Law Society of Wales.

Organisation (if applicable):

The Law Society of Wales

Contact details:

Respondent X030

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

Dispute Resolution Centre Wales (DRC Wales) agrees that the tribunals identified in the White Paper are devolved tribunals. However, DRC Wales also wishes to note that some other bodies identified by the Law Commission and/or Welsh Government as falling *outside* the proposed characteristics of tribunals (these characteristics being bodies that hear disputes between parties and adjudicate upon them by making binding decisions) would constitute bodies that DRC Wales considers to be engaged in dispute resolution, and would therefore fall within DRC Wales' aims to bring together various dispute resolution initiatives operating in Wales. DRC Wales would then propose to work closely with the administration of the new tribunals system particularly with respect to matters of common interest and principles across dispute resolution initiatives in Wales (including, for example, ombuds schemes, internal and external administrative review, mediation and arbitration schemes).

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

DRC Wales believes that a distinctively Welsh approach to dispute resolution should be fostered, promoted, co-ordinated, and monitored, to capitalise on good practice and encourage future developments. As Welsh Government, the Law Commission, and previous research by members of the DRC Wales Board highlights,¹ tribunals in Wales have developed in an ad hoc and piecemeal fashion over time. Research also, however, highlights that devolved Welsh tribunals have developed progressive and innovative methods of dispute resolution, including the promotion and use of Alternative Dispute Resolution (ADR).² However, the lack of coherence in underpinning legislation and lack of full structural independence prevents the devolved Welsh tribunals from fully reaching their potential, particularly from the perspective of coherence, efficiency and access to justice, and crucially from

¹ S Nason (ed), *Administrative Justice in Wales and Comparative Perspectives* (University of Wales Press 2017); S Nason, H Pritchard, A Sherlock and H Taylor, *Public Administration and a Just Wales* (Nuffield Foundation/Bangor University 2020); S Nason and H Pritchard, "Administrative Justice and the Legacy of Executive Devolution: Establishing a Tribunals System for Wales" (2020) 26(4) *Australian Journal of Administrative Law* 3.

² S Nason and H Pritchard, "Administrative Justice and the Legacy of Executive Devolution: Establishing a Tribunals System for Wales" (2020) 26(4) *Australian Journal of Administrative Law* 3.

DRC Wales' perspective, from fully engaging with and raising awareness of the diversity of modern, flexible, creative, cost-effective and constructive approaches to dispute resolution in Wales. DRC Wales supports the overall aims of developing a new tribunals system for Wales, in particular the aims to improve and regularise the structure and operation of the devolved tribunals in Wales.

DRC Wales agrees with the proposed structure of the unified tribunals system for Wales. Restructuring tribunals into more rationalised, clustered, or amalgamated structures is a long-term trend across common law jurisdictions. A large body of research can be summarised as proposing the following potential benefits of rationalisation and systematisation: improving coherence and reducing fragmentation including by avoiding the creation of new ad-hoc routes to redress, bolstering tribunal independence, increasing access to justice both through physical co-location and more accessible procedures and practices as well as shared learning across subject-matter jurisdictions, and the enhanced adoption of ADR mechanisms. Other objectives of rationalisation include facilitating the use of technology, improved training, deployment, and career prospects for judges, members and other staff, and achieving potential economies of scale through shared rather than duplicated facilities and resources.³

DRC Wales agrees that the proposed tier and chamber structure for the devolved Welsh tribunals should bring coherence, simplicity and efficiency to the existing system, and has the potential to increase the public profile of tribunals in Wales, enhancing user experiences and access to justice. The tier and chamber structure should allow for the appropriate allocation of judicial and other resources based around subject-matter expertise and experience. DRC Wales also supports the flexibility built into the structure to allow for the development of jurisdictions, in particular where this stems from the Commission on Justice in Wales' recommendation that the Welsh tribunals should be used for dispute resolution relating to future Welsh legislation. The aims behind the proposed new tribunals structure for Wales align with DRC Wales' own aims around fostering and promoting a principled "Welsh model" of dispute resolution. DRC Wales particularly supports the proposals on the basis that a rationalised and coherent structure has the potential for greater shared learning and innovation with respect to the adoption of ADR mechanisms, including digital/online mechanisms.

Whilst DRC Wales agrees with the proposed structure for devolved tribunals, it should also be noted that there remains comparatively little post-implementation research examining the impact of tribunal rationalisation and systematisation reforms in common law jurisdictions, particularly from the

³ See e.g., R Creyke, 'Amalgamation of Tribunals: Whether 'tis Better ... ?' in S Nason (ed), *Administrative Justice in Wales and Comparative Perspectives* (University of Wales Press 2017); R Creyke, 'Australian Tribunals: Impact of Amalgamation' (2020) 26 *Australian Journal of Administrative Law* 206; L Sossin and J Baxter, 'Ontario's Administrative Tribunal Clusters: A Glass Half-Full or Half-Empty for Administrative Justice?' (2012) 12 *Oxford University Commonwealth Law Journal* 157.

perspective of access to justice and the development of consistent, coherent and principled tribunal jurisprudence. There remains insufficient research into the extent to which tribunal reforms meet their stated objectives.⁴ DRC Wales considers that monitoring and evaluation of the reforms with respect to the adoption of ADR and innovative methods of dispute resolution will be an area where DRC Wales can contribute.

Jurisdictions transferring into the tribunal system

Question 4

Do you agree that the jurisdiction of the Welsh Tribunals should be transferred to the First-Tier Tribunal for Wales.

Yes. Although the case is less compelling for the School Admission Appeal Panels, where as a matter of proportionate dispute resolution, thought could instead be given to their remaining under Local Authority control, but with supervision from the President of Welsh Tribunals and an appeal to the Appeal Tribunal for Wales on a point of law. From the perspective of DRC Wales, proportionate dispute resolution here must include consideration of ensuring consistency and procedural fairness alongside local knowledge and timely resolution.

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Yes

⁴ See e.g., comments in R Creyke, 'Amalgamation of Tribunals: Whether 'tis Better ... ?' in S Nason (ed), *Administrative Justice in Wales and Comparative Perspectives* (University of Wales Press 2017) and C Barnard and A Ludlow, "Administrative (in)justice? Appellants' experiences of accessing justice in social security tribunals" (2022) *Public Law* 406.

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Yes

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Yes

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Yes

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

DRC Wales agrees that in principle disputes deriving from Welsh law should include a right of appeal/review to a Welsh judicial institution, in keeping with DRC Wales' acknowledgment of and support for a principled and distinctly Welsh approach to dispute resolution. However, DRC Wales also notes the importance of dispute resolution outside judicial institutions, and the value of

alternative non-litigious options or negotiated processes and digital/online mechanisms, and that, in general, litigation should be a matter of last resort where essential as a matter of legal principle, public interest, or the necessary vindication of legal rights.

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

DRC Wales agrees that there should be an Appeal Tribunal for Wales, again in keeping with DRC Wales' acknowledgment of and support for a principled and distinctly Welsh approach to dispute resolution. DRC Wales agrees with the Law Commission that a desire to preserve current appeal routes must be balanced against a need to ensure that the system is coherent and works well as a whole, and that it is capable of evolving and accommodating new appeal routes. DRC Wales believes that this systematisation and harmonisation of routes to appeal should facilitate the principled development and use of innovative methods of dispute resolution.

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Yes

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

In principle yes, though DRC Wales acknowledges that the initial caseload of the Appeal Tribunal for Wales will be small and relate to points of law, and that the development of a chamber structure may be unnecessary for some time as a matter of proportionate and principled dispute resolution.

DRC Wales also believes that there is also a need for monitoring and evaluation with respect to the Appeal Tribunal for Wales and the development and operation of its jurisdictions, particularly with respect to adoption of ADR and innovative methods of dispute resolution, accessibility, improving public awareness, and the evolution of distinctly Welsh procedures, practices and jurisprudence.

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Yes

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Particularly given the need to for independence from Welsh Government, which may often appear as defendant in tribunal hearings, DRC Wales agrees with the creation of a statutory body at arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales. DRC Wales would then invite such a newly created body to meaningfully commit to the principles of DRC Wales', Wales Dispute Resolution Pledge (WDRP), annexed to this response.

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

As an independent statutory body corporate following the example of the Scottish Courts and Tribunals Service.

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Yes

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

DRC Wales agrees with proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in the White Paper. DRC Wales also wishes to draw attention to the existing statutory requirement for the President of Welsh Tribunals, in carrying out the functions of that office, to have regard to “the need to develop innovative methods of resolving disputes that are of a type that may be brought before those tribunals” (Wales Act 2017, section 60(4)(d)).

Appointments and deployment

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Yes

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

DRC Wales agrees that there should continue to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system, and that this can contribute to the development and operation of innovative methods of dispute resolution, particularly through the sharing of various expertise. However, cross-deployment should be carefully monitored to ensure appropriate procedures and practices continue to be adopted in each jurisdiction and that excessive 'legalism' or 'adversarialism' (found by research to be a consequence of cross-deployment in some jurisdictions) does not occur.⁵

Procedural rules

⁵ See e.g., S Nason (ed), *Administrative Justice in Wales and Comparative Perspectives* (University of Wales Press 2017) and M Doyle and N O'Brien, *Reimagining Administrative Justice: Human Rights in Small Places* (Palgrave Macmillan 2019).

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

DRC Wales agrees with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules and that the proposed Tribunal Procedure Committee for Wales should in particular reflect the various jurisdictions/chambers of the First-tier Tribunal for Wales, and eventually of the Appeal Tribunal for Wales, and that it should include practitioners and representatives of tribunal users, particularly from the perspective of facilitating ADR and developing innovative methods of dispute resolution. DRC Wales agrees it is important that such an oversight body ensure that the fostering of consistency where necessary does not come at the expense of the unique characteristics of individual tribunals especially as concerns their adoption of ADR. Given the size and scale of the task, the Committee should seek to operate in a way that is as flexible as possible.

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Yes

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

DRC Wales agrees with the value of standardisation of some aspects of Tribunal Procedural Rules of the devolved tribunals to ensure consistency and accessibility for tribunal members, users and staff. There is evidence from other legal jurisdictions that such standardisation on the face of tribunal procedural rules enhances efficiency and that rules specific to a particular tribunal or chamber should only operate where there is a clear and

demonstrable need for them.⁶ However, DRC Wales also agrees that standardisation should only be as far as appropriate and proposes that the principles outlined in the WDRP will provide assistance in determining when departures from standardisation are advisable from the perspective of ADR and innovative approaches to dispute resolution.

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

In keeping with the aims of the WDRP, of promoting and encouraging diversity and the awareness and use of modern, flexible, creative and constructive approaches to dispute resolution, DRC Wales agrees that the procedural rules of the First-tier Tribunal and Appeal Tribunal for Wales should include: an overriding objective; a duty of the parties to co-operate with each other and the tribunal (adjusted where necessary by practice directions taking into account the diversity of tribunal jurisdictions and their more inquisitorial nature); provision for service of documents by electronic means (provision but *not* a requirement); and rules on remote hearings (that can be adapted to the needs of particular jurisdictions and their users).

With respect to the First-tier Tribunal for Wales having the power to review its own decisions, we note, from the perspective of proportionate dispute resolution, that whilst this could lead to the early correction of errors swiftly and within the tribunals' system, it also adds an extra-layer of review with the potential to create burdensome workloads and some 'satellite litigation' around the conditions of its availability.

⁶ R Creyke, 'Australian Tribunals: Impact of Amalgamation' (2020) 26 *Australian Journal of Administrative Law* 206.

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

DRC Wales itself has a role to play here in terms of the development of ADR and innovative methods of dispute resolution across civil and administrative justice in Wales.

Whilst an independent entity, DRC Wales draws its inspiration and support from the Law Council of Wales, which has been instrumental in convening a group of leading dispute resolution practitioners with a particular interest in promoting dispute resolution in the Welsh context. DRC Wales is led by a Board that is interdisciplinary, comprising dispute resolution professionals drawn from the law, academia, government, public, third, and legal sectors, and Welsh judiciary. DRC Wales conducts its activities under three core themes: promotion, education, and research; co-ordination; and supervision/oversight.

The aims of DRC Wales include encouraging the Welsh judiciary to actively embrace and commit to promotion of non-court dispute resolution, and fostering opportunities to market a “Welsh model” of dispute resolution and, by implication, of Wales within other parts of the UK and abroad. DRC Wales’ aims also include considering the development, support and finance of formal systems of dispute resolution triage in the DNA of the developing Welsh tribunals system and engaging with other key bodies in the promotion, co-ordination and oversight of dispute resolution in Wales.

DRC Wales aims to supervise the principled use and development of dispute resolution in Wales, and oversee the broader landscape, including through establishing a Wales Dispute Resolution Pledge (“WDRP”) promoting and encouraging diversity and the awareness and use of modern, flexible, creative and constructive approaches to dispute resolution, and offering an opportunity to demonstrate, to individuals, businesses and other stakeholders, approaches to how disputes can be managed, conducted and resolved without the need for recourse to the court system. The WDRP is a living document, and the current version is annexed to this response. DRC Wales also aims to encourage Welsh Government, other public bodies and significant commercial entities operating in Wales, to meaningfully commit to WDRP principles.

DRC Wales notes that tribunals operating in Wales, alongside the broader administrative justice system, were previously overseen by the Administrative

Justice and Tribunals Council (AJTC) Welsh Committee, and its successor, the Committee for Administrative Justice and Tribunals in Wales (CAJTW). A subsequently repealed Schedule to the Tribunals Courts and Enforcement Act (TCEA) 2007 defined the administrative justice system as the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including— (a)the procedures for making such decisions, (b)the law under which such decisions are made, and (c)the systems for resolving disputes and airing grievances in relation to such decisions. The AJTC Welsh Committee, and subsequently CAJTW, had functions to keep this system under review in Wales including considering ways to make the system accessible, fair, and efficient, advising Welsh Ministers on proposed changes to the system, and making proposals for research. These oversight bodies considered the administrative justice system to include not only courts and tribunals, but also ombudsmen, commissioners, internal review within public bodies, and various other ad hoc routes to redress. Whilst there has been an austerity related trend of abolishing or de-funding such statutorily-based oversight councils/committees, their importance is increasingly being re-acknowledged. In particular that the costs of failures in public administration and in publicly funded dispute resolution mechanisms consequent on having insufficient independent sources of advice and oversight outweigh the savings from de-funding such bodies, alongside the important role such bodies can play in monitoring the use of emerging technology in administrative law and dispute resolution mechanisms. The budget of the AJTC Welsh Committee was in the region of £55,000 per-annum (e.g, in 2010-11 and 2011-12).

DRC Wales' aims to promote, co-ordinate, and monitor, developing distinctively Welsh approaches to dispute resolution across all areas of justice in Wales are complementary to the previous roles of the AJTC Welsh Committee/CAJTW which included to oversee systems for resolving disputes and airing grievances in relation to administrative decisions. DRC Wales acknowledges the important role played by such oversight bodies and would commit to working with any future oversight body established, in addition to working with the Welsh Government, the President of Welsh Tribunals and the body established to administer the new tribunals system for Wales.

Question 43

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

Whilst it is increasingly common to speak of innovative rather than alternative methods of dispute resolution, DRC Wales wishes to note that innovation in dispute resolution is not expressly mentioned and ADR is only mentioned twice in the White Paper, on two occasions quoting the same Commission on Justice in Wales conclusions and recommendations that informed the establishment of DRC Wales, and twice suggesting ADR as an example of what might be included as part of a non-exhaustive list of discretionary provisions that could be covered in Tribunal Procedure Rules made by the Tribunal Procedure Committee. DRC Wales proposes to work with any Tribunal Procedure Committee established, the President of Welsh Tribunals, and the broader administration of the new tribunals system, to encourage the active embrace of alternative/innovative methods of dispute resolution (where appropriate to particular jurisdictions).

Your name:

Dr Sarah Nason, on behalf of the practitioner and academic members of Dispute Resolution Centre Wales / Canolfan Datrys Anghydfodau Cymru (DRC Wales). This is a response on behalf of the practitioner and academic members of DRC Wales only, judicial members have not been involved in this response and it should not be taken as reflecting their views in any way.

Organisation (if applicable):

Dispute Resolution Centre Wales / Canolfan Datrys Anghydfodau Cymru (DRC Wales).

Contact details:

Respondent X032

Scope of our reforms

Question 1

Do you agree with the tribunals we have identified as the devolved tribunals, as set out in paragraph 22?

- i. the Mental Health Review Tribunal for Wales
- ii. the Education Tribunal for Wales
- iii. school admission appeal panels and
- iv. school exclusion appeal panels

A new structure for Wales' tribunal system

Question 2

Do you agree with the proposed structure of the unified tribunal system for Wales?.

Question 3

Do you agree with the proposed structure for the tribunal membership in the unified tribunal system?

Jurisdictions transferring into the tribunal system

Question 4

Do you agree the jurisdictions of the Welsh Tribunals should be transferred to the First-tier Tribunal for Wales?

Question 5

Do you agree that, in principle, the jurisdiction of the Valuation Tribunal for Wales should be transferred to the First-tier tribunal for Wales?

Question 6

Do you agree that if the jurisdiction of the Valuation Tribunal for Wales is not transferred to the First-tier Tribunal for Wales, it should still be subject to the supervision of the President of Welsh Tribunals?

Question 7

Do you agree the jurisdiction of school exclusion appeal panels should be transferred to the First-tier Tribunal for Wales?

Question 8

Do you agree the jurisdiction of school admission appeal panels should continue to be administered by admission authorities for the time being?

Current arrangements work effectively.

Not able to comment at moment without more information about how it would work in detail if transferred.

Question 9

Do you agree appeals from school admission appeals panels should be available on a point of law to the First-tier Tribunal for Wales?

Difficult to comment fully at moment without more information about how it would work in detail if transferred.

Question 10

Do you agree with the initial chamber structure we propose for the First-tier Tribunal for Wales?

Question 11

Do you agree as a guiding principle disputes deriving from Welsh law should be heard in a Welsh judicial institution?

Question 12

Are there any particular types of dispute under devolved law which you believe lend themselves particularly well to being resolved by a tribunal?

Question 13

Do you agree there should be an Appeal Tribunal for Wales?

Question 14

Do you agree the Appeal Tribunal for Wales should be the appellate body for appeals from the First-tier Tribunal for Wales unless there are exceptional reasons requiring different provision to be made?

Question 15

Do you agree jurisdictions should be transferred to the Appeal Tribunal for Wales over time, and that they should be organised into chambers by subordinate

legislation made by the Welsh Ministers with the concurrence of the President of Welsh Tribunals?

Independence

Question 16

Do you agree with the proposed statutory duty to uphold judicial independence applying to all those with responsibility for the administration of justice as that applies to the reformed tribunal system in Wales?

Question 17

Who do you think should be included on the list of those with responsibility for the administration of justice as it applies to the reformed tribunal system in Wales?

Question 18

Is there a need for all members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales to take an oath or affirmation of their commitment to uphold judicial independence?

Question 19

Do you have views on the proposed formulation of the oath or affirmation, if one is adopted?

Question 20

Do you agree with the creation of a statutory body arms-length from Welsh Government to be responsible for the administration of the new tribunal system in Wales?

Question 21

Do you think the proposed statutory body should be constituted as a Welsh Government Sponsored Body, as a non-ministerial department, or something else? Why?

Question 22

Do you think the Chair of the Board of the statutory body should be a Welsh Ministers' appointment or the President of Welsh Tribunals ex officio?

Question 23

Do you have any other comments on arrangements for the administration of the new tribunal system at Table 1?

The President of Welsh Tribunals

Question 24

Do you agree the President of Welsh Tribunals should be the presiding judge of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales, able to sit as a judge in those tribunals?

Question 25

Do you agree with our proposals to enhance the office of President of Welsh Tribunals by conferring statutory duties, functions and powers on the office, as detailed in this White Paper?

Appointments and deployment

Question 26

Do you agree with our guiding principles for the appointment of members to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Question 27

Do you agree with our proposals for the appointing authority for members of the new tribunals:

cc) except for Chamber Presidents and Deputy Presidents, members of the First-tier Tribunal for Wales to be appointed by the President of Welsh Tribunals;
and

dd) Chamber Presidents and Deputy Presidents of the First-tier Tribunal for Wales and members of the Appeal Tribunal for Wales to be appointed by the Welsh Ministers with the concurrence of the President of Welsh Tribunals.

Question 28

Do you agree the President of Welsh Tribunals and the Welsh Ministers when making appointments to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should be required to have regard to the need to encourage diversity in the range of persons appointed?

Question 29

Do you agree eligibility criteria for appointment to the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should enable the pool of candidates eligible for appointment to be drawn as widely as possible?

Question 30

Do you agree the Welsh Ministers should set terms and conditions of appointment of members of the new tribunal service?

Question 31

Do you agree to there continuing to be a system of cross-deployment for judicial, legal and non-legal members in the new tribunal system?

Question 32

Do you think the appointment processes for the President of Welsh Tribunals should change in any way as part of the proposed reforms set out in the white paper?

Complaints and discipline

Question 33

Do you agree with our proposals for managing complaints and making disciplinary decisions about members of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales?

Question 34

Do you agree with the proposed investigatory role for an independent body or person? Who do you think that body or person should be?

Question 35

Do you agree with our proposals for the management of complaints about the administration of the new tribunal system?

Procedural rules

Question 36

Do you agree with the creation of a statutory committee with responsibility for developing Tribunal Procedure Rules, as detailed in paragraphs 173-177 and in Table 4?

Question 37

Do you agree with the proposed exercise of the power to make the tribunal procedural rules?

Question 38

Do you agree with the Tribunal Procedure Rules Committee developing common procedural rules across the new tribunal system whilst recognising and accommodating the unique characteristics of each jurisdiction?

Question 39

Do you agree with our proposal that the Tribunal Procedure Rules of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales should include the following matters:

- a) an overriding objective
- b) a duty of the parties to cooperate with each other and the tribunal
- c) provision for service of documents by electronic means
- d) a power for the First-tier Tribunal for Wales to review its own decisions, and
- e) rules on remote hearings

Bringing justice closer to the people of Wales

Question 40

Do you agree the operation of civil and administrative justice in Wales should be kept under review? And if so, how should this be done?

Welsh Language

Question 41

We would like to know your views on the effects that our proposed reforms to devolved tribunals in Wales to create a unified, coherent tribunal system comprising of the First-tier Tribunal for Wales and the Appeal Tribunal for Wales would have on the Welsh language, specifically:

- a) on opportunities for people to use Welsh and
- b) 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?

Question 42

Please also explain how you believe the proposed reforms could be formulated or changed so as to have:

- a) 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
- b) 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.

Question 43

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

Your name:

Organisation (if applicable):

Contact details: