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Welsh Government & Welsh Revenue Authority
Consultation – summary of responses

Views on the Legislative Proposals Relating to the Welsh Tax Acts

March 2026

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Contents

1. Overview	3
2. The purpose of the consultation	4
3. Consultation process.....	4
4. Summary of consultation responses	5
5. Question 1.....	6
6. Question 2 & 3	7
7. Question 4.....	8
8. Question 5.....	9
9. Question 6.....	10
10. Question 7	11
11. Question 8	11
12. Question 9	12
13. Question 10	13
14. Question 11	13
15. Question 12	14
16. Question 13	16
17. Question 14	16
18. Question 15	17
19. Question 16	18
20. Question 17 related to the Welsh language.....	19
Annex A – List of respondents	20

1. Overview

Introduction

- 1.1. This report summarises the responses to the Welsh Government and Welsh Revenue Authority's consultation on legislative proposals relating to the Welsh Tax Acts and the Welsh Government's response.

Next steps

- 1.2. It will be for the next Welsh Government to decide whether to give effect to these proposals through new primary legislation, subject to Senedd approval and scrutiny. The consultation has affirmed the current Welsh Government's view that the proposed changes to the Welsh Tax Acts would ensure that the Welsh Revenue Authority can continue to manage Welsh taxes as effectively as possible and keep delivering for Wales. A series of unrelated amendments to the Welsh Tax Acts are therefore being developed that could be delivered through the introduction of a tax maintenance bill.

Action Required

- 1.3. This document is for information only.

Further information and related documents

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

Contact details

For further information:

Email: consultation@wra.gov.wales , ymgyngoriad@acc.llyw.cymru

Post: Welsh Revenue Authority

PO Box 108

Merthyr Tydfil

CF47 7DL

Additional copies

- 1.5. This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website. Individual responses are excluded.
- 1.6. Link to the consultation documentation: [Consultation on legislative proposals relating to the Welsh Tax Acts](#)

2. The purpose of the consultation

- 2.1. The consultation invited views on the proposed changes to the Welsh Tax Acts.
- 2.2. The consultation posed sixteen questions relating to changes to the Welsh Tax Acts. The consultation also sought views on how or whether the Welsh language would be positively or negatively impacted by this work.
- 2.3. The proposed changes seek to:
 - remedy areas where the Welsh Revenue Authority (“WRA”) has found difficulty in operating the legislation effectively,
 - respond to feedback from taxpayers and advisors, and/or
 - bring Wales in line with changes that have happened elsewhere within the UK.
- 2.4. Many of the proposed changes are unrelated to each other, but the overall aim is to clarify, enhance and future-proof the Welsh Tax Acts to enable the WRA to continue to collect taxes as effectively as possible and support wider public service delivery in Wales.

3. Consultation process

- 3.1. The consultation invited views on the proposed amendments to the Welsh Tax Acts, to be included in Wales’s first proposed ‘tax maintenance bill’. The consultation responses will assist the next Welsh Government to determine whether the proposed bill should be introduced into Senedd Cymru.
- 3.2. The consultation was open from 5 November 2025 to 26 January 2026. The consultation was published in Welsh and English on the Welsh Government’s consultation web page.
- 3.3. Respondents were able to submit their views and comments in Welsh or English, by post (hard copy), by email or through an online response form.
- 3.4. The Welsh Government’s tax principles set out the approach to developing and delivering devolved tax, stating that Welsh taxes should raise revenue to fund public services as fairly as possible; deliver Welsh Government policy objectives; be clear, stable and simple be developed through collaboration and involvement, and contribute directly to the Well Being of Future Generations Act goal of creating a more equal Wales. The proposed amendments to the Welsh Tax Acts to be brought forward in a tax maintenance bill should support these principles where appropriate.

4. Summary of consultation responses

4.1. The consultation received nine responses. Not all consultees responded to all questions. Six substantive responses were received by email and three received through the online form. All responses were submitted in English only. Where respondents did not indicate whether they wished to keep their responses anonymous or not, identifying information has been removed from this summary. Respondents named in this summary provided their consent to do so or published their responses.

4.2. Responses by type of respondent

Category of respondent	Number of respondents
Individuals responding in a private capacity	4
Professional bodies and/ or interest groups	4
Academics at Higher Education Institutions	1

The full list of respondents can be found in **Annex A**.

4.3. Overall reception to the proposals in the White Paper has been positive, including that the changes are made through primary legislation. The majority of respondents (including all respondents that provided substantive responses) are supportive of the majority of proposals in the White Paper, with Propertymark noting some sector-specific concerns, such as the proposal to increase late payment interest rate (proposal 9).

4.4. Three of the four anonymous responses provided by individuals did not address the purpose of the consultation. These three responses did not support any of the proposals and did so without providing rationale for their position, or they expressed dissatisfaction with devolution generally as well as commenting on income tax powers outside the scope of the consultation. Whilst the expression of such dissatisfaction and views is valid, they do not help inform the specific issues that the consultation sought to address. Therefore, all proposals put forward in the consultation have a negative response rate of 33% arising from these three respondents.

4.5. The Chartered Institute of Taxation (CIOT), its Low Incomes Tax Reform Group (LITRG) and the Stamp Taxes Practitioners Group (STPG) broadly welcomed the Welsh Government's proposals to make the specified changes to the Welsh Tax Acts. Stating the proposals support greater clarity and fairness and highlighted where safeguards or additional scrutiny afforded by the primary legislative process are beneficial.

4.6. The submission by Dr Sara Closs-Davies and Professor Adrian Sawyer (University of Manchester and University of Canterbury, New Zealand) echoed these sentiments. Whilst supporting the proposals, they also advocated for transparency, accountability and clear guidance if the proposals

are implemented to ensure taxpayers understand their rights and the changes being made. The submission acknowledged the need for consistency in certain areas with wider UK taxation practice while tailoring to Welsh needs.

- 4.7. The Institute of Chartered Accountants in England and Wales (ICAEW) echoed these sentiments, providing support for most proposals subject to strong conditions around fairness, proportionality, resourcing, and legislative clarity.
- 4.8. Two responses were received from an industry stakeholder and an industry representative. Both submissions provided support for the proposals, acknowledging many of the proposals would make changes in the interests of the taxpayer (with a few exceptions), and additional comments relating to clear guidance and a need for stakeholder engagement.
- 4.9. The Welsh Government and the WRA would like to thank all respondents for the time and effort they took to engage with this consultation.

5. Question 1

- a. **Do you agree or disagree with the proposed amendment to the Tax Collection and Management Act (TCMA,) to clarify the constitution of committees and sub committees of the WRA board?**
- b. **Do you agree that non-members of the WRA (i.e. WRA staff who are not Board members) can vote in committees and sub-committees of which they are members (according to the Terms of Reference) other than Audit, Risk and Assurance Committee (ARAC) and Remuneration Committee (RC)?**

In favour of proposal	6 (66.7%)
Against proposal	3 (33.3%)

- 5.1. Respondents supported the proposed amendments to the WRA's governance arrangements in TCMA, including allowing non-Board WRA staff to vote on committees or subcommittees they sit on, and giving WRA Board responsibility for deciding which committees require non-executive membership. As stated earlier, the three negative responses were all provided anonymously, and did not support any proposals. These account for all the 'Against proposal' responses in this and subsequent questions.
- 5.2. Respondents agreed the proposals provide an appropriate separation between strategic oversight and operational management, enabling timely, informed decisions by WRA staff while maintaining Board scrutiny and accountability.
- 5.3. Propertymark noted "*we think this amendment will help maintain the separation between strategic oversight and operational management,*

enabling WRA staff to make timely, informed decisions while preserving the Board's scrutiny and accountability role."

- 5.4. CIOT, whilst noting that the proposed amendment was a change to legislation rather than a clarificatory amendment, supported the amendment. CIOT also noted that pursuant to the change, Board members should document the criteria used to decide when non-executive membership is required, if this is not already in place.

6. Question 2 & 3

Question 2

- a. **Do you agree or disagree with an amendment to TCMA to allow the WRA to share protected taxpayer information with principal councils and Welsh Government for the purposes of their functions?**
- b. **What safeguards do you think are necessary to protect taxpayer information?**

Question 3

- a. **Do you agree or disagree with amending TCMA to allow the WRA to share protected taxpayer information with principal councils for the purposes of WRAs visitor levy functions?**
- b. **Do you believe any additional taxpayer safeguards need to be put in place?**

In favour of proposal	6 (66.7%)
Against proposal	3 (33.3%)

- 6.1. These two questions have been grouped together as all substantive responses to the consultation also did.
- 6.2. Respondents were generally supportive of the proposal, noting that a joined-up approach allows an opportunity to create a more efficient tax compliance and management system across the Welsh taxes collected and managed by the WRA. Respondents also noted that statutory protections such as oversight bodies and additional offences should be considered so that protected taxpayer information is handled appropriately.
- 6.3. Respondents strongly supported the absolute necessity for robust safeguards and appropriate infrastructure to be in place should sharing of this nature to proceed to avoid misuse. CIOT stated *"data protection is not our area of expertise however our primary concern from a taxpayer perspective is that taxpayers are made fully aware of the ways in which their data may be used (and the protections on use) at the point they make a transfer of data to the WRA."*

- 6.4. An industry stakeholder also noted, *“there is concern that a move away from a national tax authority sharing towards local authority and intra government sharing within Wales could lead to the mis-use or incorrect sharing of data which could be used for the wrong purpose”*.
- 6.5. Dr Sara Closs-Davies and Professor Adrian Sawyer commented that *“A joined-up approach also allows an opportunity to create a more efficient tax compliance and management system, in addition to the possibility of making it easier and simpler for taxpayers and professionals to adhere to their tax obligations”*. However, noting that *“data protection should be adhered to in effective ways considering the possibility that some of the data sets may be small (and easier to identify individuals) relative to larger data sets held and shared by other institutions.”*
- 6.6. Propertymark noted wider benefits of data disclosure, stating it *“could assist principal councils in matters such as council tax and non-domestic rates compliance, as well as providing Welsh Government with useful data for policy and planning, including social housing, planning, tourism research and potentially a greater understanding of rental and home buying markets.”* Also, *“for our members, improved data sharing could also help ensure accurate property transaction records and local taxation compliance, reducing errors and administrative burdens on estate and letting agents.”*
- 6.7. The same industry representative also provided five safeguards for data, namely anonymised data, restrict access only to those with operational needs, no third-party disclosure, use only for pre-defined purposes, and that all access and distribution logged and auditable.

7. Question 4

- a. **Do you agree or disagree with amending TCMA to give the WRA the power to withhold repayments while undertaking an enquiry?**
- b. **Do you agree that a decision to withhold repayment should be an appealable decision?**
- c. **Would any additional taxpayer safeguards be beneficial to accompany this power?**
- d. **Do you think there should be a time limit on how long the WRA has to decide whether to repay or open an enquiry, following a taxpayer amendment being received?**

In favour of proposal	5 (55.5%)
Against proposal	3 (33.3%)
No comment	1 (11.1%)

- 7.1. Respondents were supportive of the amendment. CIOT considered that *“amending TCMA to provide a power to withhold, once an enquiry has been opened, is appropriate for revenue protection provided there is the safeguard*

of an appealable decision by the taxpayer. We also suggest that it will be important to make clear to taxpayers the circumstances in which withholding will be made and their right to appeal at the point at which the repayment is made” [We believe this was intended to be read as ‘at the point at which repayment would otherwise be made’]. CIOT suggested the proposed power should be limited to scenarios where WRA has opened an enquiry.

- 7.2. Propertymark stated, *“We support the principle of providing the WRA with the power to withhold repayments of LTT during an enquiry where there is a genuine risk that a taxpayer amendment may be incorrect or invalid.”*
- 7.3. CIOT stated the power is similar to HMRC’s powers in the case of income tax and capital gains tax in Tax Management Act 1970 section 59B(4A) as well as a similar power to the one proposed in paragraph 17 of Schedule 10 to the Finance Act 2003 for stamp duty land tax for claims outside a return, however noting that there was no direct read across in terms of an equivalent power for HMRC to withhold repayments without opening an enquiry.
- 7.4. CIOT also noted in response to the subsequent questions that the decision should be appealable and a time limit of 9 months to decide whether to withhold a repayment to align with the current time limit in section 42 TCMA 2016 for the correction of a tax return. ICAEW concurred with CIOT that the decision should be appealable, however they considered that the WRA should only have 30 days to decide whether to withhold a repayment and then be able to withhold said repayment for a maximum of 12 months.

8. Question 5

- a. **Do you agree or disagree with clarifying TCMA to ensure that WRA need not open an enquiry to reject a claim where s67 applies?**
- b. **What are the reasons for your answer?**

In favour of proposal	6 (66.7%)
Against proposal	3 (33.3%)

- 8.1. Respondents were supportive of the amendment, noting the similar HMRC powers. It was noted that clarifying the legislation removes inefficiency and reduces unnecessary administration; Dr Sara Closs-Davies and Professor Adrian Sawyer noting it would *“simplify administration and reduce unnecessary work, thus making the tax system more efficient.”*
- 8.2. As well as concurring with the overall statements by respondents above, an industry representative concluded that *“we support this measure because the clarification removes unnecessary procedural steps, reduces burdens on agents and taxpayers, while retaining protections through appeal rights, making the system more efficient and transparent.”*

- 8.3. The ICAEW stated the proposal aligned to their Ten Tenets for a Better Tax System, in particular stating that tax rules should be simple and provide certainty to taxpayers. The professional body stated that the changes to the process should make it clear to the taxpayer: the reason(s) why the claim has been rejected; and that they can appeal, how to appeal and what the deadline is for appealing.

9. Question 6

- a. **Do you agree or disagree with amending TCMA to provide a power for WRA to be able to issue an information notice to gather information to check whether the conditions for the withdrawal of a relief have been met?**
- b. **What are the reasons for your answer?**

In favour of proposal	5 (55.5%)
Against proposal	3 (33.3%)
No comment	1 (11.1%)

- 9.1. Respondents supported the proposal noting this question relates to LTT relief for special tax sites under Sch 21A, LTTA 2017, where the WRA may have insufficient information to determine if the relief should be withdrawn.
- 9.2. Propertymark noted that any new power to issue information notices is clearly defined and tightly scoped and does not become a general or speculative information gathering tool, yet supported the proposal overall stating that *“it is important that reliefs operate as intended and that public revenue is protected.”*
- 9.3. The ICAEW noted, whilst supporting the proposal overall, that *“any correspondence should make it clear to the buyer that they have an obligation under s49(1)(f), LTTA 2017 to submit a further return to WRA, where relief under Sch 21A needs to be withdrawn, within 30 days of a disqualifying event”.*
- 9.4. CIOT confirmed that the proposal *“is in accordance with the established position for SDLT enabling the WRA to gather the information required (limited in time to a 4-year period from the effective date) with the safeguards of a review/appeal for the taxpayer.”*
- 9.5. Dr Sara Closs-Davies and Professor Adrian Sawyer added that *“Information notices must be presented and written in non-intimidating and meaningful ways (e.g., written in ‘plain Welsh/English’ where legislative jargon is kept at a minimum for taxpayers to understand). Taxpayers’ rights must also be mentioned in such cases.”*

10. Question 7

- a. Do you agree or disagree with amending TCMA to allow WRA to carry out unannounced visits for the purposes of Landfill Disposals Tax without the approval of the tribunal or taxpayer?
- b. Are there additional taxpayer safeguards you think that should be included?
- c. What are the reasons for your answers?

In favour of proposal	3 (33.3%)
Against proposal	3 (33.3%)
No comment	3 (33.3%)

- 10.1. Respondents noted the benefits for parity across the UK tax authorities for these powers so long as there are sufficient protections for taxpayers, with Dr Sara Closs-Davies and Professor Adrian Sawyer advising that WRA staff should provide identification and authorisation to undertake the visit. Two respondents did not comment as they lacked landfill expertise.
- 10.2. The ICAEW, whilst supporting the proposal stated that WRA *“should be required to provide a written statement of reasons for the visit at the immediate point of entry (or within 24 hours if operational security strictly demands it).”* They also stated that *“the legislation should limit the scope of these specific unannounced powers to Landfill Disposals Tax compliance only.”*
- 10.3. CIOT also supported the proposal, stating that *“we think this approach is consistent with England and NI for landfill tax and is reasonable to counter the nature of fraud risk at landfill sites (large sites with limited management line of sight).”*

11. Question 8

- a. Do you agree or disagree with inserting a regulation making power to allow Welsh Ministers to vary the fixed penalty amount?
- b. What are the reasons for your answer?

In favour of proposal	4 (44%)
Against proposal	3 (33%)
No comment	2 (22%)

- 11.1. Respondents noted that this would be an appropriate power for minor changes, such as uprating for inflation, to be dealt with via regulations and not with the additional Senedd scrutiny and amending ability through primary legislation. There were differing opinions as to whether it would be appropriate

to manage more radical changes, such as moving the penalty system to a point-based rather than immediate fiscal penalty, via secondary regulations.

- 11.2. Overall, Propertymark supported the proposal stating it would ensure *“penalties remain fair and relevant, and maintaining confidence in the Welsh property market. Updating fixed penalties through regulation would keep the system responsive and proportionate, reducing delays and reinforcing the value of using qualified, compliant agents”* so long as *“any changes to fixed penalty amounts should be subject to public consultation and a full impact assessment with consultation with membership bodies such as Propertymark.”*
- 11.3. Dr Sara Closs-Davies and Professor Adrian Sawyer voiced their support for the power *“provided that it is within limits as set by the Senedd, and subject to regular reviews of the fixed amounts. This allows an opportunity for penalties to reflect the unique issue at hand on a case-by-case basis, thus creating a fairer tax system”*.
- 11.4. However, CIOT and a the ICAEW stipulated that such a power should only be used for minor changes, such as uprating for inflation, to dealt with via regulations. Both organisations made representations that major amendments to the penalty regime should be set out in primary legislation to ensure full scrutiny of legislation that results in the imposition of some kind of burden (compliance or financial) on taxpayers. They also made the point that inflationary-only changes would *‘likely lead to penalty amounts ceasing to be a round sum that would be more difficult for taxpayers to remember.’*

12. Question 9

- a. Do you agree or disagree with increasing the interest amount on late payment interest to BoE base rate + 4%?**
- b. What are the reasons for your answer?**

In favour of proposal	4 (44.4%)
Against proposal	5 (55.5%)

- 12.1. Dr Sara Closs-Davies and Professor Adrian Sawyer advised that the *“use of BoE is sensible and the uplift provides a reasonable assessment of the relative risk of interest as an unsecured debt”*.
- 12.2. CIOT and a ICAEW supported the proposal, acknowledging the risk that not having parity with HMRC could potentially cause HMRC debts to be prioritised due to higher interest rates where a taxpayer owes SDLT and LTT or LDT and landfill tax.

- 12.3. An industry representative and Propertymark voiced their objections to the proposal highlighting that *“a high interest rate could be seen as excessive and unfair”* without parity with overpayment interest and increasing costs for the private rental and landfill sectors.

13. Question 10

- a. Do you agree or disagree with amending TCMA to ensure that where a taxpayer amends their tax liability downwards that any interest amount should reflect the amendment to the tax return?
 b. What are the reasons for your answer?

In favour of proposal	6 (66.7%)
Against proposal	3 (33.3%)

- 13.1. Respondents overall supported the proposal. It was noted that by aligning interest calculations with the actual liability, the proposed amendment protects cash flow and reduces unnecessary costs. Furthermore, as Dr Sara Closs-Davies and Professor Adrian Sawyer noted that the proposal aligns the treatment of Welsh taxpayers with existing Scottish and UK provisions.
- 13.2. ICAEW supported the proposal noting *“tax rules should be fair to both the taxpayer and the tax authority.”* CIOT considered that the proposal *“reflects a fair balance between the WRA’s powers and the rights of taxpayers.”*
- 13.3. Propertymark also welcomed the policy’s focus on fairness, demonstrating that the WRA is committed to accurate, proportionate, and transparent treatment of taxpayers.

14. Question 11

- a. Do you agree or disagree with amending LDFA to clarify that any use of material within a landfill cell is taxable unless explicitly excluded?
 b. Do you agree or disagree with using the same definition for landfill cell as used in the Scottish Landfill Tax (Prescribed Landfill Site Activities) Amendment Order 2022?
 c. What are the reasons for your answers?

In favour of proposal	3 (33.3%)
Against proposal	3 (33.3%)
No comment	3 (33.3%)

- 14.1. Respondents agreed with the purpose of the proposal to align the WRA's powers to UK and devolved Scottish powers and practices, particularly with recovery activities. It was noted that the amendment is crucial to prevent waste tourism. Two respondents did not comment as they lacked landfill expertise.
- 14.2. The ICAEW provided their support for the proposals noting that the proposal *"can close a significant loophole that currently blurs the line between "disposal" and "use"*. Also noting the alignment is crucial to prevent waste tourism from other parts of the UK.
- 14.3. ICAEW also provided their support for the proposed definition of a landfill cell stating that: *"adopting the Scottish definition of a "landfill cell," which defines the taxable area by its impermeable layer. This change is crucial for closing known loopholes – such as the excessive use of waste material for internal walls or "bunds" to avoid tax – and ensures legislative consistency with the rest of the UK to prevent "waste tourism." While this definition offers a clear, physical boundary that simplifies compliance, it is vital that the Welsh Government also adopts the associated Scottish exemptions."*
- 14.4. An industry group raised concerns that the proposals *"may inadvertently bring some recovery activities into scope especially where those recovery activities share some similarities with those of an inert landfill cell"*. The stakeholder asserted that *"taxing recovery activities does not constitute an environmental tax and prohibits sites from being brought back into useful life"*.

15. Question 12

- a. **Do you agree or disagree with amending LTTA to achieve the stated aim [to specify when consideration provided from outside of the group will not result in the withdrawal of the relief, unless the transaction is part of a scheme to save LTT]?**
- b. **What are the other circumstances where you think it would be appropriate to not withdraw the relief?**
- c. **Do you think that this amendment will increase the risk of tax avoidance?**
- d. **What are the reasons for your answers?**

In favour of proposal	2 (22.2%)
Against proposal	5 (55.5%)
No comment	2 (22.2%)

- 15.1. The majority of respondents were not in favour of the proposal. It was noted that the proposal ensures that legitimate intra-group property transfers by corporate groups are not inadvertently penalised. Agreeing with the proposal, Propertymark stated that *“group relief should not be withdrawn for normal business reasons, such as moving property between group companies, restructuring the business, or using standard loans or mortgages. Relief should only be removed if the main purpose is to avoid tax.”*
- 15.2. CIOT voiced concerns relating to the proposal, stating: *“We are concerned that attempting to amend LTTADT(W)A 2017 to ensure relief is not restricted in relation to identified specific transactions could lead to more complex legislation that may not protect benign scenarios identified in the future and therefore require further amendment.*

We suggest that one of the advantages of a single TAAR test that applies to all LTT reliefs should be to reduce the need for specific uncertain anti-avoidance conditions for the reliefs themselves.

However, we recognise that the WRA has reasonable concerns that removal of the condition in Schedule 16 paragraph 4(3)(a) altogether may risk extending the availability of relief beyond that which is intended, for example where a lease is granted inter-group where there are arrangements to sell the landlord’s interest and for future rent to be paid to a third party. An option to evaluate is whether an extension to the exception for consideration provided by a group company in Schedule 16 paragraph 4 (3)(a) to provision by a connected person (not just a group member) is within the policy intent.

This extension would ensure that shareholder debt does not compromise the relief in the benign example provided in the consultation at paragraph 12.710. Any such extension would require extending the withdrawal of relief to circumstances where that connection is lost within the three-year period.”

- 15.3. The ICAEW stated that *“legislation can become too complex, and quickly outdated, if it tries to restrict relief on very specific transactions, some of which would be genuine commercial transactions that are inadvertently caught. If there are areas of concern they would be better dealt with in LTT guidance (although that is not binding), which could give examples of scenarios that the rules are not intended to apply to and examples where relief would be restricted.*

As an alternative, we have considered whether s31, LTTA could be amended, to limit relief to cases that the Welsh Assembly (sic.) intended. ICAEW’s preference is for the primary legislation to be made as clear as possible, with a supporting Ministerial statement at the date it is enacted that sets out the intended scope.”

16.Question 13

- a. Do you agree with amending LTTA to clarify that in an A to A+B transaction A is not to be treated as a buyer?
- b. Can you identify any avoidance risks in this approach and how they could be countered?
- c. What are the reasons for your answers?

In favour of proposal	4 (44.4%)
Against proposal	3 (33.3%)
No comment	2 (22.2%)

- 16.1. Dr Sara Closs-Davies and Professor Adrian Sawyer noted that there “*need to be clear rules to ensure that the intention of the provision is met*”. Respondents acknowledged that the clarification would remove uncertainty and bring much-needed consistency and fairness.
- 16.2. Propertymark voicing their support for the proposal stated that it would “*better reflect the practical reality of these common arrangements, such as when couples or family members decide to co-own a property, and would simplify compliance for property professionals while reducing administrative burdens for both taxpayers and the Welsh Revenue Authority*”.
- 16.3. CIOT, supporting the proposal, made statements in relation to the scope of amendment stating: “*We think in principle there is no basis for limiting the clarification to residential property and therefore the question should be put beyond doubt for both residential and non-residential property. The TAAR in LTTADT(W)A 2017 section 31 should help to address any concerns in relation to avoidance for example facilitating a claim for relief that would not otherwise be available if both A and B are both buyers. However, consideration could be given to extending the market value rule to such transactions where B is a company.*”

17.Question 14

- a. Do you agree that the changes to ensure collective enfranchisement transactions are not charged at the higher residential rates is appropriate?
- b. Can you identify any avoidance risks in this approach and how they could be countered?
- c. What are the reasons for your answers?

In favour of proposal	3 (33.3%)
Against proposal	3 (33.3%)
No comment	3 (33.3%)

- 17.1. Respondents with LTT expertise were in favour of the proposal. Respondents noted that the interface with the Leasehold and Freehold Reform Act 2024 may necessitate further consequential changes in due course to keep the parity of effect for enfranchisement transactions.
- 17.2. Propertymark observed that *“Clarifying this position will provide much-needed certainty for leaseholders, conveyancers, and agents involved in these transactions and will help to ensure that legitimate collective enfranchisement activity is not discouraged by unintended tax consequences.”*

18.Question 15

[Paragraph 3(1)54 Schedule 8 LTTA sets out the general rule that nominees and bare trustees are “looked through” for LTT purposes, so that the buyer and seller are beneficial, rather than the legal, owners. The White Paper proposes amending the LTTA to ensure that the availability of reliefs is not restricted by this look through.]

- a. Do you agree with amending LTTA to achieve this?
- b. How do you propose we best achieve this?
- c. Do you foresee any tax avoidance activity that such a change could give rise to?
- d. If so, how should we legislate to prevent the avoidance activity?
- e. What are the reasons for your answer?

In favour of proposal	4 (44.4%)
Against proposal	3 (33.3%)
No comment	2 (22.2%)

- 18.1. In providing their support for the proposal ICAEW noted that the Finance (No.2) Act 2005 SDLT amendments closed a loophole by creating specific rules for leases granted by nominees, but genuinely commercial transactions are being caught which cannot benefit from reliefs. The proposal is to allow relief in those cases, which would ensure fairness.
- 18.2. CIOT surmised that *“The application of the deeming rule has the potential to produce undesired results where the identity of the seller or buyer determines availability of a relief or the application of computational charging rules for partnerships. We therefore agree with amending the LTTA to remove these*

distortions.” In answering the subsequent question in the section, ICiOT go on to provide a potential drafting solution stating:

One option to evaluate is to consider removing the deeming provision in LTTADT(W)A 2017 Schedule 8 paragraph 3(3) and (4) and instead address the presumed target of the original avoidance by extending LTTADT(W)A 2017 Schedule 6 paragraph 22 (cases where an assignment of lease treated as grant of lease) to catch situations where a lease is granted from or to a nominee followed by an assignment. A reporting requirement on the actual grant of the lease could be added to make it easier for the WRA to track use of this arrangement. This option would remove the wider collateral damage to the LTT code.

A more restricted option is to apply a limited exception to the current rule in two circumstances; on the grant of a lease to a partnership and on a sale and leaseback such that in those cases (only) the beneficial owner is treated as lessor or lessee. In addition, it would be helpful to provide certainty on the application of the deeming rule beyond the transaction itself (that is, the grant, surrender or termination of a lease). Limiting its application to the transactions themselves should ensure the mischief at which the provision is aimed is countered while other LTT provisions operate, as intended, by reference to beneficial ownership. remove the wider collateral damage to the LTT code.”

- 18.3. Propertymark advised that *“Eligibility criteria for reliefs should also be clearly defined, specifying which reliefs can be claimed in nominee or bare trustee arrangements and ensuring that the beneficiaries or ultimate owners have a legitimate interest in the transaction. In addition, comprehensive guidance should be provided for agents, conveyancers, and taxpayers on how reliefs apply in these circumstances.”*

19. Question 16

- a. **Do you agree to the proposed amendments for this section and particularly amending section 187A(1) to ensure the rights to request a review or appeal are provided to the Crown?**
- b. **Do you have any other comments on the operation of Crown application?**
- c. **What are the reasons for your answers?**

In favour of proposal	4 (44.4%)
Against proposal	3 (33.3%)
No comment	2 (22.2%)

19.1. Minimal comments were provided by respondents in relation to this proposal although it was noted that the proposal fixes suspected typographical errors.

20. Question 17 related to the Welsh language

20.1. The substantive respondents to the consultation did not offer any views on the Welsh language.

Annex A – List of respondents

1. Anonymous
2. Anonymous
3. Anonymous
4. Anonymous
5. Dr Sara Closs-Davies and Professor Adrian Sawyer (University of Manchester and University of Canterbury, New Zealand)
6. FCC Recycling (UK) Ltd, trading as FCC Environment
7. Joint response from The Chartered Institute of Taxation (CIOT), its Low Incomes Tax Reform Group (LITRG) and the Stamp Taxes Practitioners Group (STPG)
8. Propertymark Ltd
9. The Institute of Chartered Accountants in England and Wales (ICAEW)