



Llywodraeth Cymru  
Welsh Government

PUBLICATION

# Consultation on the regulations reforming the Non-Domestic rates appeals system for Wales

We are seeking views about measures which will improve the appeals process. These measures are specific to the Non-Domestic rating system.

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# Introduction

The Welsh Government previously **consulted** on proposals for reform of the non-domestic rating (NDR) appeals system, between 17 October 2017 and 9 January 2018. Respondents were asked to consider various aspects of the system in Wales and give their views on potential changes to the following aspects.

- Improving the appeals process
- Registration for the appeals process
- Time periods for each stage
- Provision of information
- Backdating appeals
- Fines (civil penalties)
- Appeal fees
- The role of the Valuation Tribunal for Wales (VTW).

One of the key messages from the consultation responses was that no changes should be made midway through an NDR list (between revaluations) and that the preferred timing for changes would be the beginning of the next new list, then planned for 1 April 2021. As a result of the coronavirus pandemic, the next revaluation has been rescheduled to 1 April 2023.

On 29 March 2022, the Minister for Finance and Local Government made a statement setting out the Welsh Government's plans to reform non-domestic rates during the current Senedd term. This includes plans to move towards more frequent revaluations. Changes to the appeals system, underpinned by the adoption for Wales of a digital platform delivered by the Valuation Office Agency (VOA), will be a critical enabler for this objective, ensuring that ratepayers in Wales are able to benefit from ongoing improvements.

This is a technical consultation on the draft Non-Domestic Rating (Alteration of

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Lists and Appeals) (Wales) Regulations 2023 ('the draft Regulations'), which will provide for the adoption of the VOA's digital platform for Wales and a small number of additional changes to the arrangements for appeals to the VTW. The key changes that the draft Regulations will provide for are set out below. The draft Regulations are attached at [Annex A](#).

This consultation seeks views about the legislative and practical application of the draft Regulations. It will be open for a 12-week period and will close on 3 October 2022. The consultation applies to Wales only.

## Reforming the appeals process

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

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

The key changes within the appeals process are explained in more detail below and aim to improve the efficiency of the system for ratepayers and public bodies by reducing speculative and unsuccessful appeals.

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## VOA digital platform

The VOA deployed a digital platform for the 2017 rating list in England. Respondents to the consultation wished to monitor progress with implementation before any change was made to the appeals process for Wales. Recent evidence indicates that the initial challenges, following implementation in 2017, have been resolved and the VOA continues to improve delivery for the benefit of ratepayers.

The reformed NDR appeals system will be underpinned by the VOA's digital platform, which will be extended to provide services for Wales. The digital platform will hold NDR valuation data and provide the portal for ratepayers to interrogate their valuation data and exchange information with the VOA. This will provide the online facility for ratepayers to 'check' and 'challenge' their valuations, in a similar way to the process which has been implemented and embedded for ratepayers in England.

## The 'check' stage

The 'check' stage will ensure that the information held by the VOA about a hereditament is accurate and verified. This stage of the process will require the ratepayer (or other person) to first request and review the information held by the VOA about the hereditament. The VOA may request any missing information. When the ratepayer is satisfied that the information is complete and accurate, they must confirm this to the VOA.

The final deadline in legislation for the completion of a check by the VOA will be 12 months after receiving this confirmation. This maximum period allows for the proper consideration of complex cases, as well as circumstances leading to the submission of large volumes at the same time, but practically almost all are completed within three months. If any amendments or additions are made to the

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information, the VOA must review these changes and, if it accepts them, amend the valuation and rating list where relevant. The date on which the VOA notifies the person that it has completed its review and made any changes as a result, is the date on which the 'check' is complete.

## The 'challenge' stage

Once a check has been completed, the 'challenge' stage will consider any disagreements which remain and allow a proposal for an alternative valuation to be submitted to the VOA, supported by evidence. This must be done within four months following the completion of a check (or elapse of the 12-month deadline, if not met). A proposer must have a reason for making a challenge, in accordance with the grounds for the proposal already established under the existing appeals process.

The VOA will refuse any challenge which does not include all the required information and evidence. If a challenge is refused, the VOA must notify the proposer and inform them of the information which is missing. The proposer will be able to submit a replacement within the original four-month time limit for submitting a challenge, following completion of a check. The time between the VOA receiving and refusing the incomplete challenge does not count towards this time.

Within six weeks of receiving a challenge the VOA will notify the ratepayer (if they are not the proposer) and the local authority in which the hereditament is situated. The local authority will be able to provide the VOA with evidence relating to the proposal. The VOA will respond to the challenge with any additional information it holds or acquires which is relevant to the detail of the proposal. The proposer will be able to respond by providing further evidence before the VOA resolves the challenge. If the proposer acquires further evidence which could not reasonably have been acquired before the challenge was submitted, they may provide this to the VOA.

The VOA will decide whether the challenge, as supported by all the available evidence, is based on a well-founded proposal, and justifies the alterations it proposes. If the VOA decides that a proposal is well founded, it will alter the list in response to the challenge. The VOA will decide a challenge is not well founded if it disagrees with a proposal and considers the current list to be accurate, or considers that an alteration is justified, but a negotiated agreement cannot be reached. Once a decision is reached, the VOA must notify relevant persons of the decision, reasoning, and the proposer's right to appeal to the VTW within four months.

## **Fines (civil penalties)**

Respondents to the consultation exercise generally accepted that fines would be appropriate for the deliberate provision of false information by ratepayers, but the parameters would need to be carefully defined to avoid disputes. It was also considered that the level of any fines should be affordable for all to avoid exclusion from the appeals process.

The VOA will be able to impose a £200 penalty on a person for knowingly, recklessly or carelessly providing information in a check or challenge which is false in a material particular. The information provided will be considered false in a material particular if it contains an inaccuracy which, if relied upon, may alter the outcome of the check or challenge, or may lead to an inaccuracy in the rating list. The VOA will have discretion as to whether to issue penalties.

The VOA will serve a penalty notice on the recipient, providing details related to the information found to be false and the amount of the penalty. The recipient of a penalty notice will be able to appeal to the VTW within 28 days. The penalty cannot be recovered by the VOA until after the deadline for making an appeal has passed, or any appeal has been resolved by the VTW. The VTW's decision regarding a penalty appeal will be final and will not be the subject of an appeal to the Upper Tribunal.

## Appeals to the VTW

The final stage of the process is the opportunity for a ratepayer to appeal a decision made by the VOA. Appeals are handled by the VTW, using a process distinct from the VOA digital platform. Much of the process for the appeal stage will remain unchanged. Currently, if the VOA does not reach a decision on a proposal to change a valuation within three months, the case is automatically transferred to the VTW as an appeal. This results in a large volume of unnecessary appeals and will be addressed in the reformed process.

### The 'appeal' stage

Ratepayers will be able to make an appeal to the VTW, once they have progressed through the check and challenge stages with the VOA. Proposals will no longer automatically transfer to appeals if they are not resolved by the VOA within three months. An appeal will be allowed up to four months after the VOA has decided on the proposal. If the VOA has not reached a decision within 18 months of receiving the proposal, an appeal will be allowed up to four months following the elapse of this date.

An appeal will only be allowed where the VOA has not altered the list in response to a challenge, has altered the list in a way that was not proposed, or has not reached a decision within 18 months (and the challenge has not been agreed or withdrawn). If one of these conditions apply, an appeal can be made on either or both grounds that: the rateable value for the property is not reasonable; or the list, other than the rateable value, is inaccurate for the hereditament.

The notice of appeal will have to be submitted within the deadline, state the ground(s) for the appeal, and set out which details related to the list being considered inaccurate remain unresolved from the challenge stage. It will have

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to be accompanied by copies of the proposal and any additional information exchanged as part of the challenge, as well as the VOA's decision. The VTW will then consider the appeal in accordance with its existing arrangements.

## **Admission of new evidence at appeal**

The consultation proposed that the introduction of any new evidence at the appeal stage should be limited and allowed only on the agreement of the parties involved or in exceptional circumstances. Respondents thought it essential that the VTW was presented with all relevant information to enable it to reach a correct and fair decision and noted that vital information is sometimes not available to appellants in the pre-appeal stages. New evidence will, therefore, be admitted at the appeal stage only if it were not known, or could not reasonably have been acquired, before the proposal was considered by the VOA. Any evidence not provided at the appropriate stage in the process, or subject to this exception, will not be considered in the appeal.

## **Appeal fees**

The consultation also sought views on charging fees for appeals. Respondents stated that fees could act as a deterrent to spurious or protective appeals, but that the level of fees should not be so high as to deter appellants. Most respondents took the view that fees, if introduced, should be payable at the appeals (VTW) stage and appellants should be refunded if an appeal proved successful. It is expected that the other reforms to the appeals process will contribute to a reduction in the volume of unnecessary appeals. If this is successful, the additional benefit from a fee regime may not justify the administrative cost of operating it. The Welsh Government will not, therefore, introduce fees for appeals at the present time, but may reconsider this in the future if a further mechanism to reduce unnecessary appeals is required.

## Persons able to engage in the appeals process

The reformed appeals process includes some refinements to the ways in which certain persons can engage in it.

A person may previously have been the ratepayer, but has since ceased to be. If a 'check' is submitted by an interested person, they will still be able to submit a 'challenge' (within four months) under any grounds, even if they have ceased to be an interested person. If an interested person does not submit a 'check' before they cease to be one, they will be able to do so during the life of the list, but only concerning the time when they were an interested person and only under certain grounds.

Under the existing appeals process, a local authority may make a proposal and appeal in relation to a hereditament in their locality, despite not having a direct interest in the property. It is unclear in what circumstances such appeals would be necessary and the ability to do so may not be compatible with their role as the billing authority within the NDR system. The reformed process will not, therefore, include provision for local authorities to submit a 'check' or 'challenge, or to make an appeal, in relation to a hereditament in their area (unless they are able to do so as the ratepayer for the hereditament).

## Structure of the legislation

The draft Regulations will revoke and replace the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 ('the 2005 Regulations'). There are six parts to the draft Regulations and the overall structure follows that of the 2005 Regulations. The overall structure of the draft Regulations is described in this section, drawing out the key areas of divergence from the 2005 Regulations.

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Part 1 of the draft Regulations contains definitions of terms used. In addition to those contained in the 2005 Regulations, definitions required for new terms are included.

Part 2 of the draft Regulations deals with the alteration of local NDR lists. This is the part of the draft Regulations which diverges most from the 2005 Regulations. The procedure for a 'check' to be completed is provided by regulations 5 to 10. The time limit, requirements and procedure for a 'challenge' is provided by regulations 11 to 15. A penalty regime for knowingly, recklessly or carelessly providing false information is provided by regulations 16 to 19. The procedure following a VOA decision on a proposal is provided by regulations 20 to 23. The grounds and procedure for making an appeal to the VTW are provided by regulations 24 to 26. Other provisions within this part replicate, with minor or without modification, the equivalent provisions in the 2005 Regulations.

Part 3 of the draft Regulations deals with alterations of central NDR lists, applying Part 2, with modifications, to hereditaments shown on a central list. The provisions preserve the effect of the equivalent part of the 2005 Regulations.

Part 4 of the draft Regulations deals with appeals against completion notices and the imposition of particular penalty notices (not those related to the new penalty regime for the provision of false information). The provisions preserve the effect of the equivalent part of the 2005 Regulations.

Part 5 of the draft Regulations deals with the general processes to be followed by the VTW in managing appeals and largely replicates, with minor modifications, the equivalent part of the 2005 Regulations. The exceptions are the introduction of a restriction on the admission of new evidence at the appeal stage, provided by regulation 46, and the inclusion of a provision in regulation 49 for the VTW to order the VOA to remit a penalty for the provision of false information following appeal.

Part 6 of the draft Regulations deals with miscellaneous and general matters,

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replicating with minor modifications the equivalent provisions in the 2005 Regulations, where relevant. The draft Regulations are intended to come into force on 1 April 2023, to coincide with the new NDR list following revaluation. A transition provision in regulation 59 clarifies that the 2005 Regulations will continue to have effect in relation to a local or central rating list compiled before 1 April 2023.

## Next steps

This technical consultation on the draft Regulations will be open for 12 weeks. Following the end of the consultation, responses will be considered and any further amendments which may be required will be drafted.

Subject to the views submitted during this consultation exercise, it is intended that the draft Regulations will be laid before the Senedd in due course and come into force on 1 April 2023.

## Consultation questions

### Question 1

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

### Question 2

Do the draft Regulations provide clarity on the procedure for a 'challenge'?

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### **Question 3**

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

### **Question 4**

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

### **Question 5**

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

### **Question 6**

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

### **Question 7**

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

### **Question 8**

The Welsh Government would like your views on the effects these proposals

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would have on the Welsh language, specifically on:

1. opportunities for people to use Welsh; and
2. 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 9

Please also explain how you believe the proposals could be formulated or changed

so as to have:

- 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
- 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 10

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

## How to respond

Submit your comments by **11 October 2022**, in any of the following ways.

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- Download, complete our [response form](#) and post it to:

Non-Domestic Rates Policy Branch  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

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## Data Protection Officer

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## Information Commissioner's Office

Information Commissioner's Office  
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Cheshire  
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: [ico.org.uk](http://ico.org.uk)

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with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Further information and related documents

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