



Y Cyngor Cyfiauwr Gweinyddol a
Thribiwnlysoedd **Pwyllgor Cymru**
Administrative Justice & Tribunals Council
Welsh Committee
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Valuation Tribunals in Wales Reorganisation Consultation

The Welsh Committee of the Administrative Justice and Tribunals Council (AJTC) has considered this consultation and have asked me to pass on their comments, which have the support of the full AJTC.

The AJTC and its Welsh Committee

The AJTC is an advisory Non Departmental Public Body set up under the Tribunals, Courts and Enforcement Act 2007. It has a statutory duty to:

- keep the overall administrative justice system under review; and
- keep under review the constitution and working of the tribunals listed as being under its oversight, including the Valuation Tribunals in Wales.

The Welsh Committee of the AJTC takes the lead in overseeing administrative justice and tribunals in Wales.

The AJTC's overarching strategic objective is to focus, first and foremost, on the needs of the users of the administrative justice system.

Further information is available at www.ajtc.gov.uk

General Comments

While warmly welcoming the proposal for a single Valuation Tribunal for Wales with a National President, the Committee believes that Ministers are in danger of losing an opportunity for a more radical reform of the Valuation Tribunal system to bring it into line with modern expectations of judicial independence following the Leggatt Review of Tribunals in 2001.

The changes currently under way in the Valuation Tribunals in England, including, among other things, the appointment of a President and Vice-Presidents and members by the Lord Chancellor, can only serve to draw attention to the conspicuously less independent Valuation Tribunal system in Wales. The Committee is concerned that tribunal users in Wales should have access to an administrative justice system that is at least as open, independent and impartial as that available to users elsewhere. In this regard, the Committee considers that the proposals in this consultation fall short, which could expose the Welsh Assembly Government to possible criticism and challenge.

Responses to the consultation questions

1. Would the creation of a single Valuation Tribunal for Wales meet the needs of the public and other stakeholders?

Yes. The creation of a single VT for Wales is an improvement on the present situation and should provide better judicial leadership and promote improved standards of decision making, consistency of approach and dissemination of best practice. In the Committee's opinion, the proposed changes will be of benefit to tribunal users.

However, the proposals fall short of the creation of an independent, open, impartial and efficient system, and further reforms are desirable, including:

- **Appointment of tribunal members** following an independent merit selection process conducted by the Judicial Appointments Commission. This would reinforce tribunal independence, make the appointment system more transparent and lead to greater coherence in appointments. Better awareness and publicity of vacancies could also have the benefit of increasing the representation of minority groups. Provision is made in the *Local Government and Public Involvement in Health Act 2007* for the Lord Chancellor to appoint members of the Valuation Tribunal for England, however there is no corresponding legislative provision in Wales.
- **Rationalisation of tribunal members** so that the number of members match the actual and projected workload at hearings. This would ensure that members are able to regularly participate in hearings and should enhance the consistency of decision-making throughout Wales. By way of comparison, the number of members in England has fallen from 1,198 members in 2004/05 to 834 members in 2007/08, which gives English members an opportunity to sit on a more regular basis.
- **Lodging of appeals direct to the VT**, rather than through the body whose decision is being challenged (the Valuation Office Agency), in order to demonstrate the independence of the appeal system. In England, appeals in Council tax cases have been lodged with the tribunal since April 2008. This would give users confidence that their appeal was being reviewed independently.

2. Do you agree that having a national president would provide better leadership for the Service?

Yes. As outlined in the Council on Tribunals (predecessor to the AJTC) report, 'Tribunals: their Organisation and Independence'¹:

- One central President is able to 'lead from the centre, by driving the system along, co-ordinating procedures and practices across the country, ensuring that policies and standards are adopted and enforced, harmonising practices and procedures and, generally, managing the system' (para 2.21).
- The 'absence of a central direction can lead to different practices and procedures being operated in different regions' (para 2.21).
- A single tribunal President ensures that there is someone in 'a position to speak with one voice to in dealings with the sponsoring department' (para 2.22).

The Committee also considers that:

¹ See <http://www.council-on-tribunals.gov.uk/publications/126.htm> for a full copy of this report.

- The appointment of the President and any Vice-Presidents should be by Welsh Ministers, following an independent merit selection process conducted by the Judicial Appointments Commission. In recognition of their increased workload, they should be remunerated for the additional work they undertake for the tribunal, but not for sitting on a tribunal hearing appeal cases.
 - It is important that candidates are able to demonstrate the necessary qualities to be President in an open, merit selection process.
 - There should be clear terms of appointment and an outline of the extent of powers and duties of the President and any Vice-Presidents.
- 3. Do you agree that the president of the Valuation Tribunal for Wales should be supported by three vice presidents?**

The President should be able to decide on whether, and how many, vice-presidents are needed.

4. Should the Governing Council consist of the President, vice presidents and an independent member appointed by the Welsh Assembly Government?

The consultation document does not explain the basis for the current membership of the Governing Council, its functions, or other membership options. The Committee is uncertain what function a Governing Council would perform if the tribunal were to be headed by a single President who was adequately remunerated and appointed under an independent merit selection process, as argued above. In these circumstances, the Committee is unable to comment on this question, apart from affirming that any Governing Council should include the President.