

Rebecca Evans AS/MS
Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad
a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

John Griffiths MS
Chair – Local Government and Housing Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

11 April 2024

Dear John,

Local Government Finance (Wales) Bill

I thank the Local Government and Housing Committee for considering the Local Government Finance (Wales) Bill and the corresponding report of 15 March 2024.

Please find attached below the Government's responses to the report's recommendations. I am pleased to have been able to accept many of the recommendations.

I have not, however, been able to accept those recommendations proposing extended laying periods and statutory consultation on subordinate legislation to be made under sections 5 (non-domestic rates reliefs), 9 (non-domestic rates exemptions) 10 (non-domestic rates multipliers), 13 (avoidance of non-domestic rates) and 18 (council tax discounts) of the Bill. The response to each of these recommendations sets out the impact that an extended laying period and/or statutory consultation would have in isolation. It is, however, also important to recognise that some of these powers are connected and complement one another by acting on different parameters within the local taxation system. As such, the optimal operation of the system as a whole requires Welsh Ministers to be able to make use of these tools within the same consistent legislative processes and timescales.

I have also attached for information copies of the letters I have sent to the chairs of the Legislation, Justice and Constitution Committee and the Finance Committee, and I am sending a copy of this letter to the chairs of both of those Committees also.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive style with a small horizontal line above the 'i' in Evans.

Rebecca Evans AS/MS

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Cabinet Secretary for Finance, Constitution & Cabinet Office

Annex

Responses to the Local Government and Housing Committee Recommendations in relation to the Local Government Finance (Wales) Bill

Recommendation 1: We recommend that the Senedd agrees to the general principles of the Local Government Finance (Wales) Bill.

NOTED. I am grateful to the Committee for its considered stage 1 scrutiny, and for recommending that the Senedd should support the Bill's general principles.

Recommendation 2: The Welsh Government should amend the Bill to include a requirement for a statutory review to be undertaken on the use of powers under sections 5, 9, 10, 13 and 18 of the Bill.

The review should be undertaken before the end of the Seventh Senedd and should include:

- An assessment by the Welsh Ministers of alternative legislative mechanisms for making changes to Welsh legislation in the context of NDR reliefs, exemptions, multipliers, anti-avoidance provisions and council tax discounts; and
- A requirement to consult the Senedd.

ACCEPT IN PRINCIPLE. Rather than include a commitment to undertake a statutory review on the face of the Bill, the Welsh Government will amend the Explanatory Memorandum after stage 2 to include a non-statutory commitment to undertake a post-implementation review of the operation and impact of this legislation before the end of the seventh Senedd. This will include consideration of the relevant subordinate legislation making powers in the Bill.

Recommendation 3: The Welsh Government should provide further details on the arrangements in place to monitor the capacity of the Valuation Office Agency and the Valuation Tribunal for Wales following implementation of shortened revaluation cycles.

ACCEPT. Through established sponsorship arrangements for the Valuation Tribunal for Wales and our annual Service Level Agreement with the Valuation Office Agency, we have longstanding arrangements in place to monitor the capacity and delivery of both organisations. Both organisations produce annual reports and monitor delivery against key performance indicators.

Recommendation 4: The Welsh Government should keep the Senedd informed of any work undertaken and proposals being considered to change the Antecedent Valuation Date in future.

ACCEPT. The Senedd will be notified of any future proposal to shorten the Antecedent Valuation Date, which is a longer-term consideration. In line with the established practice, regulations to set the Antecedent Valuation Date for future rating lists will be brought forward at the appropriate time.

Recommendation 5: The Minister should bring forward amendments to section 14 of the Bill to provide for a minimum period of 60 days, excluding periods of dissolution or recess of more than 4 days, to allow relevant committees to scrutinise any draft regulations proposed under the powers in section 5, where the powers are to be used to confer or withdraw reliefs.

REJECT. A super-affirmative procedure is used only in exceptional instances where the affirmative procedure is considered to be insufficient. I do not believe that is the case in relation to the provisions in this Bill.

None of the range of existing powers for the Welsh Ministers to provide for reliefs by regulations are subject to a super-affirmative procedure. It is likely that the recommended procedure would often not be workable on a practical level, due to the need for local authorities to implement billing system changes in the months before 1 April each year.

Adopting this recommendation could disadvantage ratepayers by delaying or even preventing the provision of new support, especially where the budget available to inform the Welsh Government's approach is affected by the UK Government Autumn Statement. As a practical example, we could not have provided the generous and comprehensive transitional relief that was put in place following the 2023 revaluation if the regulations (which were made under the existing power in section 58 of the 1988 Act) had been subject to the proposed procedure. There would not have been sufficient time to prepare regulations and bring them into force in time for local authorities to implement the relief prior to undertaking their annual billing activities. Whilst the recommendation would not apply to the power relied on in that example, a similar context could apply to potential uses of the powers in section 5 of the Bill.

Recommendation 6: The Minister should bring forward amendments to the Bill to expressly require the Welsh Ministers to undertake consultation before making regulations under the powers in section 5, where the powers are to be used to confer or withdraw reliefs.

REJECT. The development of any regulations will take place in accordance with existing common law legal duties to consult and the Welsh Government's established policy on consultation with stakeholders. A legislative requirement in this regard is not necessary. It may be disproportionate in some instances, such as where minor administrative amendments may be made to regulations.

None of the range of existing powers for the Welsh Ministers to provide for reliefs by regulations are subject to a statutory consultation duty. The established practice is that we do usually consult before using existing relief powers (recent examples include the provision of improvement relief and heat networks relief from 1 April 2024), in line with these obligations. Adopting this recommendation could, however, disadvantage ratepayers by delaying or even preventing the provision of new support where it has been necessary to act urgently with insufficient time to consult, and especially where the budget available to inform the Welsh Government's approach is affected by the UK Government Autumn Statement.

As a practical example of the constraint this recommendation would impose if it applied to existing powers, we could not have provided the generous and comprehensive transitional relief that was put in place following the 2023 revaluation if consultation had been required before the regulations (which were made under section 58 of the 1988 Act) could be brought forward. There would not have been sufficient time to prepare regulations and bring them into force in time for local authorities to implement the relief prior to undertaking their annual billing activities. Whilst the recommendation would not apply to the power relied

on in that example, a similar context could apply to potential uses of the powers in section 5 of the Bill.

Recommendation 7: The Welsh Government should work with local authorities to develop guidance on the revised charitable rate relief eligibility requirements. The work should be carried out before the provisions in section 6 come into force.

ACCEPT. The Welsh Government has existing guidance on the range of non-domestic rates reliefs available, including in respect of charities and unoccupied properties. This guidance will be updated following passage of the Bill and prior to section 6 coming into force.

Recommendation 8: The Minister should bring forward amendments to section 14 of the Bill to provide for a minimum period of 60 days, excluding periods of dissolution or recess of more than 4 days, to allow relevant committees to scrutinise draft regulations proposed under the powers in section 9, where the powers are to be used specifically to confer or withdraw exemptions.

REJECT. A super-affirmative procedure is used only in exceptional instances where the affirmative procedure is considered to be insufficient. As I said at committee, I do not believe that is the case in relation to the provisions in this Bill.

The existing power for the Welsh Ministers to provide for new exemptions by regulations is not subject to a super-affirmative procedure. Adopting this recommendation could disadvantage ratepayers by delaying the provision of a new exemption.

There are a variety of ways in which a ratepayer's liability may be reduced to zero. These include the use of legislation or existing discretionary powers of local authorities to provide full relief. Exemptions are potential alternatives to the provision of full relief, applied when it is considered that the chargeable amount of non-domestic rates for a certain type of property should be zero on a permanent basis. In such circumstances, there would be a cost and no benefit associated with valuing properties of that type. This power is, therefore, no more significant in its potential effect on liability than other legislative or discretionary mechanisms which already exist, but will ensure greater consistency across these different elements of the system.

Recommendation 9: The Minister should bring forward amendments to the Bill to expressly require the Welsh Ministers to undertake consultation before making regulations under section 9, where the powers are to be used to confer or withdraw exemptions.

REJECT. The development of any regulations will take place in accordance with existing common law legal duties to consult and the Welsh Government's established policy on consultation with stakeholders. A legislative requirement in this regard is not necessary. It may be disproportionate in some instances, such as where minor administrative amendments may be made to regulations.

The existing power for the Welsh Ministers to provide for new exemptions by regulations is not subject to a statutory consultation duty. My response to recommendation 8 above describes how this power is no more significant in its potential effect on non-domestic rates liability than other legislative or discretionary mechanisms which already exist.

Recommendation 10: The Minister should bring forward amendments to section 14 of the Bill to provide for a minimum period of 60 days, excluding periods of dissolution or recess of more than 4 days, to allow relevant committees to scrutinise draft regulations proposed under the powers in section 10, where the powers are to be used to provide for differential multipliers.

REJECT. A super-affirmative procedure is used only in exceptional instances where the affirmative procedure is considered to be insufficient. As I said at committee, I do not believe that is the case in relation to the provisions in this Bill.

The existing power for the Welsh Ministers to set the current single multiplier at any level by regulations is not subject to a super-affirmative procedure. Adopting this recommendation could disadvantage ratepayers by preventing a beneficial intervention in the ongoing maintenance of any differential multiplier, following its implementation. The budget available to inform the Welsh Government's approach to the annual setting of the multiplier is affected by the UK Government Autumn Statement. This is exemplified by the Welsh Government's use of the existing power, to freeze or limit growth in the multiplier each year since 2018-19. The related decisions have been made as part of the Draft Budget, following the UK Government Autumn Statement. Under the recommended procedure, there would not be sufficient time to prepare regulations and bring them into force in time for local authorities to implement the specified multiplier prior to undertaking their annual billing activities.

Recommendation 11: The Minister should bring forward an amendment to the Bill to expressly require the Welsh Ministers to undertake consultation before making regulations in section 10, where the powers are to be used to provide for differential multipliers.

REJECT. The development of any regulations will take place in accordance with existing common law legal duties to consult and the Welsh Government's established policy on consultation with stakeholders. A legislative requirement in this regard is not necessary. It may be disproportionate in some instances, such as where minor administrative amendments may be made to regulations.

The existing power for the Welsh Ministers to set the current single multiplier at any level by regulations is not subject to a statutory consultation duty. While I have committed to consult before introducing any differential multiplier, the same annual consideration as applies to the setting of the existing multiplier would apply. Adopting this recommendation could disadvantage ratepayers by preventing a beneficial intervention in the ongoing maintenance of any differential multiplier, following its implementation. The budget available to inform the Welsh Government's approach to the annual setting of the multiplier is affected by the UK Government Autumn Statement, as described in response to recommendation 10. If consultation was required in relation to the annual maintenance of multipliers, there would not be sufficient time to prepare regulations and bring them into force in time for local authorities to implement the specified multiplier prior to undertaking their annual billing activities.

Recommendation 12: The Welsh Government should undertake further work to assess the suitability of the proposed timescale for providing information required under section 12, including, where appropriate, reviewing the experience in England.

REJECT. The duties extended to Wales by the Bill have not yet been commenced in relation to England. The Welsh Government may wish to commence the provisions at the same time, given that the new duties are intended to support more frequent revaluations on

a consistent basis in Wales and England.

The UK Government initially proposed 30-day timescales for the arrangements in England and increased this period to 60 days as a consequence of feedback received through their consultation. We consulted on a proposal for 60-day timescales at the outset and the majority of responses to the relevant question supported this approach.

Furthermore, in relation to the duty to provide notifiable information under paragraph 4J of Schedule 9 to the Local Government Finance Act 1988, section 12(4) of the Bill inserts an amendment to enable the ratepayer for a hereditament in Wales to seek an extension to the 60-day deadline from the valuation. Providing proactive updates in a timely manner will minimise the work involved for ratepayers, as the relevant information will be more readily to hand than it would be if they had longer or waited to respond to a reactive request. The Welsh Government and the Valuations Office Agency have provided clear commitments in relation to the fair and proportionate operation of the notification duties and associated compliance regime.

Recommendation 13: The Welsh Government should bring forward an amendment to the Bill to make the commencement of section 12 subject to Senedd approval.

REJECT. The provisions are set out in full and are the subject of ongoing scrutiny during the passage of the Bill. I have provided clear assurances that the provisions will not be commenced until the Welsh Government is satisfied that ratepayers can be reasonably expected to comply. The Valuation Office Agency's evidence to the Committee provided further assurance about the work they are doing to ensure the arrangements are straightforward for ratepayers to engage with.

Recommendation 14: The Minister should bring forward an amendment to section 14 of the Bill to provide for a minimum period of 60 days, excluding periods of dissolution or recess of more than 4 days, to allow relevant committees to scrutinise draft regulations proposed under the powers in section 13, when specifying artificial avoidance arrangements.

REJECT. A super-affirmative procedure is used only in exceptional instances where the affirmative procedure is considered to be insufficient. As I said at committee, I do not believe that is the case in relation to the provisions in this Bill.

Adopting this recommendation would lead to a delay in addressing identified anti-avoidance arrangements, resulting in the prolonged avoidance of liability. The power to make regulations in section 13 of the Bill has been carefully designed to be as limited as possible while still enabling the long-established and uncontroversial policy intention behind the provisions to be achieved. Proposals to define new artificial avoidance arrangements will have been subject to consultation prior to regulations being brought forward. I am content to consider including draft regulations in such consultations. We have taken this approach on certain occasions to ensure more novel or complex regulations achieve the policy intent and this would also enable provisional scrutiny as the Senedd considered appropriate. I am not attracted to a statutory duty to take the recommended approach, as it would be disproportionate where more minor changes may be made to ensure already established provisions remain effective.

Recommendation 15: The Minister should bring forward an amendment to the Bill to expressly require the Welsh Ministers to undertake consultation before making regulations under section 18, other than when changing rates of discount.

REJECT. The development of any regulations will take place in accordance with existing common law legal duties to consult and the Welsh Government's established policy on consultation with stakeholders. The Welsh Government has regularly demonstrated its commitment to meaningful consultation when policy changes to council tax have been proposed. A legislative requirement in this regard is therefore not necessary. It may be disproportionate in some instances, such as where minor administrative amendments may be made to regulations.

None of the range of existing powers for the Welsh Ministers to provide for amendments to discounts by regulations are subject to a statutory consultation duty. Adopting this recommendation could disadvantage council taxpayers by delaying or even preventing the provision of new support. As a practicable example of this, the Welsh Ministers were able to respond quickly to ensure that host households offering accommodation to people from Ukraine seeking safety from the war did not lose entitlement to existing discounts and incur additional council tax costs.

Recommendation 16: The Minister should bring forward an amendment to the Bill to provide for a minimum period of 60 days, excluding periods of dissolution or recess of more than 4 days, to allow relevant committees to scrutinise draft regulations proposed under the powers in section 18, other than when changing rates of discount.

REJECT. A super-affirmative procedure is used only in exceptional instances where the affirmative procedure is considered to be insufficient. As I said at committee, I do not believe that is the case in relation to the provisions in this Bill.

None of the range of existing powers for the Welsh Ministers to provide similar support through exemptions and disregards by regulations are subject to a super-affirmative procedure.

Recommendation 17: The Welsh Government should set out how it plans to monitor the implementation of the provisions in section 20 across local authorities and evaluate their impact on accessibility and transparency.

ACCEPT. I will work with local government to monitor the implementation of the provisions in section 20.

Recommendation 18: The Welsh Government should update the Senedd on its proposals for any transitional arrangements that may be required to support households and local authorities as a result of the pending council tax revaluation.

ACCEPT. I will update the Senedd in due course. The Phase 2 consultation committed to implementing targeted transitional arrangements and these will need to be designed in due course. Transitional relief schemes are commonplace for local tax revaluations, and a scheme was provided following the 2005 council tax revaluation in Wales. Relief schemes represent a critical investment to smooth impacts on taxpayers.