



WELSH REVENUE AUTHORITY CHARTER CONSULTATION

Issued 12 February 2018

ICAEW responded to the online consultation *Welsh Revenue Authority Charter Consultation* <https://consultations.gov.wales/consultations/welsh-revenue-authority-draft-charter> published by Welsh Revenue Authority on 13 December 2017. ICAEW also submitted the present document to supplement the responses provided online.

This written response of 12 February 2018 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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INTRODUCTION

1. We welcome the opportunity to comment on the proposals in the Welsh Revenue Authority (WRA) Charter Consultation <https://consultations.gov.wales/consultations/welsh-revenue-authority-draft-charter> of 13 December 2017.
2. We should be happy to discuss any aspect of our comments and to take part in future consultations on this topic.
3. We appreciate that the Charter will only, when introduced, be relevant to currently devolved taxes, land transaction tax and landfill disposals tax.
4. Nevertheless we believe that every effort should be made to introduce a Charter which will stand the test of time and be applicable to other devolved taxes as and when they are introduced.

OUR EARLIER (2014) COMMENTS ON THE PROPOSAL FOR A CHARTER

5. In December 2014 we commented on an earlier consultation Collection and management of devolved taxes in Wales which indicated that the Welsh Government intended to introduce a Charter.

Taxpayers' Charters that set out the relationship between the taxpayer and the tax authority are widely used for example by HMRC, and are considered to be good practice. The Welsh Government proposes that WRA should publish a Taxpayers' Charter and that this should set out the rights and expectations of both the tax authority and the taxpayer in the payment of taxes. (paragraph 2.25)

6. We have reproduced in the Annex the comments we made at that time [Collection and management of devolved taxes in Wales TAXREP 62/14](#) as well as a relevant extract from the Response Document of which the full document is available at <https://consultations.gov.wales/sites/default/files/consultation-documents/150210-devolved-responses-en.pdf>. We believe our comments made in 2014 are still apposite.

THE CHARACTERISTICS OF A CHARTER

7. We are of the view that Charters should be simple, straightforward, documents easily understood by their target audience, the taxpayer, and written in a simple and straightforward style and language.
8. We like the current one page chart (on page 6 of the consultation document) which encompasses the proposed content of the WRA Charter in a way that is easy to understand

The title of the Charter

9. In our view a Charter is for taxpayers, and not a charter for the revenue authority, in this case the WRA, and its name should reflect that.
10. The UK Charter is, for example, now called 'Your Charter'. This reflects the fact that the Charter is for customers of HMRC.
11. The title also recognises that HMRC not only collects taxes from taxpayers but it also pays out benefits to citizens so it is no longer just a taxpayer charter. However, unless and until benefit payments are devolved the WRA will only be dealing with taxpayers.

Rights and responsibilities

12. We believe it is right that Charters should reflect the responsibilities, as well as the rights, of taxpayers.
13. We appreciate the current WRA Charter sets out ‘joint responsibilities between the WRA (and its partners), customers and the Welsh public’ but we would suggest you look again at this point and make sure it is sufficiently clear that the document also aims to cover the responsibilities of taxpayers.
14. We have attached the UK Your Charter in the Annex as a point of reference for the purposes of that review.

The right to complain and to seek redress

15. In our view a very important functions of a Charter is to help put things right when things have gone wrong. At the moment the only parts of the draft Charter that seek to address this aspect are:
 - under the ‘Accurate’ tab, but this is framed in terms of getting things right and taking care to avoid mistakes rather than dealing with what happens when mistakes and problems arise; and
 - the ‘Supportive’ tab, but the text only requires the WRA to ‘create guidance and provide support when you ask for help’ not what is expected of the WRA when things go wrong.
16. Neither of these statements is sufficient to address this requirement. Experience with digital systems generally is that they are fine when they work, but when they go wrong it can be extremely difficult to sort out the problem, often because no person will take ownership and responsibility for sorting out the problem. We support the ethos behind the Charter of working in partnership and would hope that in practice this would be sufficient to resolve most problems, but there will be times when it will not be enough. In line with other Charters we think there should be a clear statement of the taxpayer’s right to complain and to seek redress when things do not work out as the taxpayer believes they should.

REPORTING ON WRA CHARTER PERFORMANCE

17. The consultation document states:

‘We will publish information on our website so it is easy to see how we are doing and what we have done to make improvements. We will also share data with you at events and forums.’
18. We welcome this statement and recommend that the WRA works with stakeholders to design an information set that reflects actual taxpayer expectations and experiences. We would be happy to contribute further to this work as it is very important that any information provided gains the confidence of the general public. It also needs to be coupled with an annual report into the effectiveness of the Charter as was proposed in the 2014 consultation and is discussed at the end of this representation.

INVOLVE WRA STAFF TO IMPROVE THE SYSTEM

19. The people who are most aware of failings in any system, and who often have good insight into how things can improve, are the staff of the particular organisation.

20. The success of the WRA Charter will depend on wholehearted support from WRA staff and we suggest you involve them in the development of the Charter and arrangements to monitor performance and speak with other revenue authorities, including HMRC and Revenue Scotland, which have experience of doing this.

GOVERNANCE AND OVERSIGHT

21. We think the WRA should consider how it is going to monitor its performance in relation to this new Charter.
22. We strongly recommend that the WRA holds discussions with representatives from the current UK Charter Committee to learn from the latter's experience in monitoring the UK Your Charter. We would also be happy to share our insights and experiences about what might work best but which does not create unnecessary bureaucracy and admin costs.
23. We believe there is considerable merit in putting in place a suitably independent body that will monitor the performance of the WRA in relation to its new Charter.
24. In 2015 HMRC reconstituted the non HMRC membership of its Charter Committee via a public appointment process to ensure that there was appropriate diversity amongst the new non HMRC members. While this is a model that could be used by WRA, the WRA might wish to consider a process that garners feedback from a wider pool of stakeholders. In order to keep admin costs down it would need to operate in an agile manner, but this should be more achievable using digital means.

Transparency: an annual report on the effectiveness of the Charter

25. The 2014 consultation included an indication that the Welsh Government would ensure that there is an annual report on the effectiveness of the Charter.

The Welsh Government also proposes that legislation will require WRA to report on the effectiveness of the Taxpayers' Charter, as part of its annual report. (paragraph 2.26)

26. We strongly support that approach.

APPENDIX 1

UK Your Charter

Updated version published January 2016

This can be accessed at <https://www.gov.uk/government/publications/your-charter/your-charter>

The headings of *Your Charter* are reproduced below:

Your rights - what you can expect from us:	Your obligations - what we expect from you:
Respect you and treat you as honest	Be honest and respect our staff
Provide a helpful, efficient and effective service	Work with us to get things right
Be professional and act with integrity	Find out what you need to do and keep us informed
Protect your information and respect your privacy	Keep accurate records and protect your information
Accept that someone else can represent you	Know what your representatives does on your behalf
Deal with complaints quickly and fairly	Respond in good time
Tackle those who bend or break the rules	Take reasonable care to avoid mistakes

APPENDIX 2

Welsh Revenue Authority – earlier (2014) consultation on Collection and Management of devolved taxes in Wales

ICAEW Response to the Charter question

Taxpayers' Charter

20. In principle we support the Welsh Government's proposal to have a Taxpayers' Charter that sets out the rights and responsibilities of both taxpayers and the WRA. However, we are not convinced that the current HMRC Your charter is necessarily the right model, not least because it does not really hold HMRC sufficiently to account.
21. We believe that a Charter should do more than merely reflect aspirations about how HMRC should behave and what service standards taxpayers might expect. We believe that good tax compliance is encouraged by an efficient and effective tax administration service and the Charter should reflect this commitment. It needs to have some practical value and reasonable set of service standards and behaviours that taxpayers can use and rely on in their dealings with the WRA.
22. We therefore suggest that, in addition to HMRC's model, the Welsh Government should examine the approaches and charters used in other jurisdictions. We have close contacts with professional bodies in other countries that have Charters and we would be happy to assist the Welsh Government explore further the approaches adopted elsewhere.
23. We have set out some more detailed comments on a Charter in our answers to Q4, see paragraphs [37 to 41] below.

Q4 What are your views on proposals to establish a Taxpayers' Charter? What action is essential in keeping a charter relevant and effective in supporting a constructive relationship between the Welsh Revenue Authority and taxpayers? 36. In principle we support the introduction of a Taxpayers' Charter that sets out the rights and responsibilities of both taxpayers and the WRA.

37. The Welsh Government should examine the approaches adopted in other jurisdictions and not just by the Your Charter published by HMRC. In this regard, we understand that in 2015 the Scottish Government will be consulting on a proposed Charter, so the results from this consultation should be taken into account in framing a Charter for Wales.
38. HMRC is bound not only by Your Charter but also the Civil Service code of conduct (which contains principles similar to the five fundamental principles which bind our members and, via the pan-professional guidance Professional Conduct in Relation to Taxation, members of other participating professional bodies involved in tax), and HMRC's document Purpose, Vision and Way. These should also be taken into account when drafting a Charter.
39. We believe a Charter needs to be more than just a statement of aspirations. The Welsh Government would need to ensure that it is a practical document and can directly support taxpayers in their dealings with the WRA.
40. In order to promote the confidence of Welsh taxpayers in the WRA, the adoption of a Charter should be reinforced with a publicity campaign that also sets out how taxpayers can obtain redress when things go wrong.

41. The Charter needs to be kept under regular review by an independent body and the body should report on compliance with the code at least annually. Currently, there is a review underway of HMRC's Your Charter by the advisory committee, which is chaired by ICAEW staff member Ian Young. We recommend that the Welsh Government take account of its recommendations when drawing up its approach to a Charter.

Extract from the Response Document

Question 4: What are your views on proposals to establish a Taxpayers' Charter? What action is essential in keeping a charter relevant and effective in supporting a constructive relationship between the Welsh Revenue Authority and taxpayers?

- 2.14 Of the 25 respondents who indicated a response to this question, the majority were broadly supportive of the Taxpayers' Charter. However, many raised questions about how the Charter would operate.
- 2.15 A recurring theme through all the responses, both supportive and unsupportive, was how effective a Taxpayers' Charter could be. Questions were asked about how a Charter would operate, and further clarification was thought necessary for the taxpayer to understand it. Two respondents suggested that the Taxpayers' Charter should be the subject of a specific consultation to ensure that stakeholders were given the opportunity to comment on the finer details of the Charter.
- 2.16 Both those who were supportive of the Charter, and those who were less so, noted the importance of keeping the Charter up to date. Respondents were aware that as the devolution picture continued to develop it was possible that the WRA would take on more responsibilities. It was suggested that arrangements should be put in place to review the Charter to ensure it was updated as the WRA's responsibilities changed.
- 2.17 Finally, two respondents commented on the importance of the Charter having legislative backing. They commented that the Charter's legal status was not set out in the consultation, but that they felt it should be written into legislation to ensure that it was properly enforced.

APPENDIX 3

ICAEW Tax Faculty's ten tenets for a better tax system

The tax system should be:

- **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
- **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
- **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
- **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
- **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
- **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
- **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
- **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
- **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
- **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).