



One voice for
retail warehouse &
superstore property

HM Treasury &

Ministry of Housing, Communities & Local Government

23 August 2021

GOVERNMENT CONSULTATION ON MORE FREQUENT REVALUATIONS

Response from Accessible Retail

Introduction

Accessible Retail (AR), is the trade body which represents the retail warehouse and retail park sector of the retail industry. We have over 1000 members comprising retailers, developers, owners/investors and advisers, including most of the major companies active in the sector.

Our sector plays a significant role in the economy, in the retail industry and many of our members trade across Europe and beyond. Our sector accounts for some third of total retail spend and comprises the largest part of investment grade (prime) retail commercial property. Retail parks and warehouses employ some 750,000-800,000 people in the UK.

Overarching Comments

The current system of business rates is broken. Few, if any, of the changes introduced in the last few years have worked as envisaged: revaluations have not taken place or been postponed; complex and temporary reliefs added; and an appeal system introduced which is inefficient and unfairly onerous on ratepayers.

Of most concern is that the defining principle of the system, that the level of tax should reflect market rents, is not working. Over the last decade, retailing has undergone a restructuring in response *inter alia* to the rise of online trading, with the result that in large parts of the country rents have fallen in some cases by as much as 50%. Business rates, however, have not fallen commensurately with them, but have risen.

Neither, unlike some other taxes, has the amount collected from business rates moved in line with the performance of the overall economy; instead, they have been increased annually by a measure of inflation regardless of market or economic conditions. After 30 years uplift at the higher rate the burden is now unsustainable for many retail businesses.

The impact of these failures has been very damaging to the retail industry. As a result, in past consultations, AR and other trade bodies have consistently called for urgent and comprehensive reforms.

This call has become even more critical now, especially for retailers with large property portfolios, because of the harmful impact of restrictions on trading imposed by the Covid-19 pandemic and the concomitant acceleration in the rise of pure play online traders for the latter of whom the burden of business rates is much less.

The need for comprehensive reform of the system, therefore, cannot be over emphasised. The present proposal is an important beginning, but by itself is not enough. Reflecting this, our responses to recent consultations have urged action to resolve the following issues:

- The policy on reliefs fails to recognise that larger retail businesses are struggling with high rates as well as smaller ones.
- For those large premises where property values have fallen significantly, the removal of downwards transition denies them the commensurate tax reduction they enjoyed formerly.
- Rebalancing is imperfect; the last revaluation in 2017 resulted in a much smaller reset in the multiplier than in previous years.
- The package introduced by the Government alongside the 2017 revaluation to relieve the impact of rising rates in some areas was funded by limiting the falls in other locations.
- The check and challenge procedure is unfairly tilted in favour of the VOA against ratepayers especially the VOA's lack of disclosure up front of the evidence on which they relying to challenge a ratepayers assessment.
- A reduction in the multiplier to a fairer level at or close to the 30p when the current system was first introduced.
- More frequent valuations.

AR looks forward to what proposals to address these concerns emerge from the Government's fundamental review of business rates flagged for later this year.

The present proposal for more frequent valuations represents a significant and helpful start. For this reason, AR welcomes this consultation – it is a reform we have long sought.

Comments on Questions

1. Does the proposed package of measures represent a fair and balanced trade-off for ratepayers between new benefits and new requirements? If not, please detail what adjustments you would like to see, to ensure a balanced package of measures that would support a 3-yearly cycle while taking account of deliverability constraints.

AR welcomes the decision to review the approach to the frequency of revaluations together with a commitment to regular revaluations.

We support moving to a three-yearly interval, but believe it should be a single interim phase only prior to achieving either two-yearly or annual valuations in the subsequent cycle (provided the experience of operating a three-year period does not reveal any unacceptable and/or unintended consequences). A firm commitment to achieving this trajectory should be announced in the fundamental review later this year.

We note the consultation paper comments on operational challenges and delivery constraints involved in moving to more frequent revaluations, but our understanding is that other jurisdictions in Europe and across the world have managed to overcome these and deliver similar systems that are more transparent and more responsive.

To ensure the maximum benefit is gained to all parties from a reduction in the interval between revaluations, concurrent action by Government is needed to address the following eight concerns.

First, frequent revaluation cycles are likely to generate not only benefits but also obligations for all stake holders including the VOA. Regarding the VOA, these obligations include:

- Ensuring the rating list reflects accurately market value hopefully maintaining a fair system for all.
- Whilst the sharing of information will make it easier for the Valuation Office Agency to undertake frequent and accurate revaluations, the obligation to provide information to more than one authority and to provide the same information on multiple occasions is onerous and should be simplified.
- There should be less dynamic changes with more frequent revaluations and we would welcome a review of transitional arrangements which we consider to be unfair especially where market values have fall significantly between lists.
- Many of our members and business remain concerned about their ability to plan for future liability and the predictability of the tax in future years. It is

important for all to be able to forecast current and future liability and this needs to be simple and straight forward

- There are benefits to reducing the need to reducing unnecessary challenge but this should not be at the expense of transparency and fairness.

Second, the consultation gives little detail on how the proposals will work in practice. Ultimately, the success or otherwise requires a much-improved three-way relationship between the assessing authority, the Valuation Office Agency (VOA), local authorities who levy the tax and ratepayers (landlords and tenants) and their agents

Also, it should be recognised that if three-yearly cycles are to be achieved, there needs to be more information provided in order to streamline systems. Clarity on the expectations of what is to be provided is needed to ensure all understand their obligations.

Third, clarity is needed on how such changes are to be introduced and a roadmap to proposed changes and their introduction. There is no mention of a period of transition. Arrangements are needed for the submission of returns electronically and appropriate methods for hard copy submissions should electronic means be unavailable.

Fourth, once there is a move to frequent revaluations, values will be realigned with the market. Consequently, we would like to see the end of transitional relief as part of these proposals as determining it becomes more complex the shorter the revaluation interval. If the decision is made by central government to retain a transition system, it needs to be fully funded from the centre not through downward transition.

Fifth, streamlining of the appeals system is an important element to achieving the reduction in the revaluation cycle. To ensure success, action is needed to resolve the following concerns:

- A review of the Check stage to ensure transparent delivery of the 'Duty to Notify' and appropriate support, explanation and education to aid understanding. Possibly, if sensible new reporting requirements on rate payers were introduced, the Check stage of CCA could be removed thereby speeding up the process for resolving Challenges and Appeals.
- The concept of paying for challenges is an unnecessary burden drawing on the experience from the introduction of appeal fees.
- The practicality of operating such a system will be resource intensive and it is noteworthy that in the appeals system, a significantly higher percentage of fees are now returned.
- The Valuation Tribunal Service (VTS) have partnered with World Pay and GovPay to provide the appeal fee payment portal. However, currently there is no process for accepting multiple fees and there are also issues with the costs

associated with processing initial transactions and refunds. This may work at low levels, but does have an adverse impact when dealing with high volumes, the unintended consequences is something to be mindful of.

- Restricting the submission of challenges to a compiled list assessment in the first 3 months of the revaluation gives insufficient time especially for those who have larger portfolios and we envisage that such an approach will present a significant burden. The timespan should be at least nine months from the publication of the draft rating list. The introduction also requires a significant increase in transparency in relation to the information and disclosure of the same by the VOA.
- Greater transparency on from the VOA on their valuations is to be welcomed and should be accompanied by evidence of where the information has been obtained. Making such detail available earlier and outside the appeal process would be welcomed. Greater clarity must be provided to ratepayers on how valuations were determined.

Sixth, regarding the introduction of a new 'Duty to Notify' of changes to the occupier or changes to relevant property characteristics, we are supportive in principle, provided it is accompanied by significant system improvements particularly more frequent valuations and real transparency from the VOA over how rateable values are set for individual properties. Without these benefits, a fair balance of responsibility and benefit between ratepayer and the VOA is not achieved

We have some concerns, though, which need addressing:

- Regarding worries over the attendant privacy and disclosure issues, the solution would be a lease register disclosing the parties but not necessarily details of the rent, incentives or commercially sensitive information.
- It is important that the burden of providing information to the VOA needs to be kept low. There needs to be appropriate disclosure to other stakeholders to ensure that legislative permissions have been given to support the 'change' (planning, fire regulations etc.).
- Any notification process should be as simple as possible, user friendly and not overly burdensome on ratepayers. We agree the VOA should be automatically provided with lease data when new leases are granted and when existing leases are amended at lease events. It has been suggested that in order to reduce the administrative burden on business, the administration could be incorporated with an existing compliance process, such as the SDLT filing return, to ensure that taxpayers are only supplying data to government once – and this information would be shared with both

HMRC and the VOA as appropriate. We urge consideration of this suggestion.

- More challenging is providing information on capital improvements. Identifying when this has impacted on rateable value is not straightforward because it requires professional judgement and detailed knowledge of the rules.

It has been suggested the VOA should make use of existing information sources that are already held within central and local government, which indicate when building works have been done or where a capital improvement has been made to a building. For example, local authorities will grant planning permission before construction works take place, and a fire safety inspection will be carried out after a new development is complete. In addition, ratepayers are required to disclose capital expenditure separately in their corporation tax return – which will also give an indication of when improvements have been made to a building.

The VOA could make use of these existing sources of information within central and local government, to either indicate where a new building should have a survey or site inspection – or simply to allow data requests to taxpayers to go out in a more targeted way. AR urges consideration is given to these suggestions.

- We are cautious about the intention to review when Material Changes of Circumstances should apply. Our view is that this is a valid and necessary appeal right that will still be needed in a system with a 3-yearly cycle of revaluations.
- We note that the lease information required will be similar to that requested in the current Form of Returns. We would expect the Government to consult on the proposed final set of information requirements.

Seventh, the introduction of an annual confirmation of tenure would in our view place a significant burden on the ratepayer. Once an initial return is made, it should only be necessary to make further returns when relevant changes have been made. Clarity about what needs to be reported is key to aiding understanding and compliance. The approach should be to ensure there is an ‘intelligent’ and technological solution to data sharing. Such an approach is necessary to underpinning necessary changes to the evolution and development of the system. We don’t consider this has been sufficiently considered in this consultation.

Consideration should be given to publishing a statutory lease register setting out details of the parties although not disclosing the extent of the detail behind a transaction.

Eighth, we cannot accept the proposed restrictions on the rights of property owners to make appeals in cases where they are not the ratepayer. Owners must retain this right in the following circumstances:

- When properties are still let but will be coming back to the owner and the owner wants to make an appeal.
- Where properties are occupied on a total occupation basis and the owner is actually responsible for the rates even though the tenant is the ratepayer as far as legislation is concerned.
- Where particular claims for compensation are being made and the owner wants to ensure that the valuation is correct.

2. What steps could be taken to support ratepayers to comply with the new duties? For example, elements to reflect in the design of the reporting portal, or content that would be helpful to include in the supporting guidance.

There must be meaningful consultation to ensure all stakeholders are supportive at all stages of the process. To achieve this requires account is taken of the following:

- The consultation includes stakeholders in co-design of the new processes.
- A timeline is set out 'soon as possible'.
- A more ambitious and collaborative approach to the delivery of technology. The public presentation of the list should be modernised as part of the transformation process. A good starting point would be a shared data-base publicly accessible through a 'state of the art' geographic information system (GIS), which should have layered information within 'active maps'. These should contain all relevant details held by the VOA and other relevant bodies. It is essential for business transformation for the VOA to be truly transformative.
- The portal should be truly interactive. This is unlikely to be achieved without a detailed consultation with ratepayers, their representatives, professional bodies and billing authorities even to the extent of involvement in system specifications. Lessons could be learnt from the poor performance of some government departments.
- There must be integration with users systems to aid the transfer of data seamlessly. Notifications should be provided in real-time to ratepayers (or their representatives), billing authorities and appeals bodies. The standard of the service needs to be higher if the proposals to charge fees is to be introduced but this should not restrict the aspiration for a reliable and efficient service. A good example would be the presentation of electronic evidence at appeal hearings from source documents would be possible and permissible.

3. Are you supportive of the proposed approach to Transparency? Are there further elements you think should be made available as part of a Transparency offer?

It should be accepted that the disclosure of information and the transparency as such is required from stakeholders and the VOA in equal measure. In particular:

- Disclosure of various element of the valuation should be meaningful and open, notwithstanding the need for appropriate confidentiality covering matters such as incentives, turnover and throughput.
- The VOA needs to be more progressive in sharing information rather than relying upon statutory protections on confidentiality. In particular, the latter does not help the system compare details of transactions on residential properties.
- A more positive approach to the Digital Economy Act 2017 would be a good starting point. Other Government Departments have taken a very progressive approach to the powers.
- The comments we have made in relation to question two are relevant to transparency. Access must be to source documents and data, which is delivered in a timely manner.
- If any documents are withheld, there must be a full disclosure of the reason for taking this action.

An important element of the proposed transparency reforms is the provision of detailed information on how a rateable value has been set for an individual property. Without this, real transparency on valuations will not have been achieved. The consultation paper says this information will be made available in Phase 2 but does not indicate when this would be. We regard it as essential that this is available as early as possible preferably in Phase 1.

4. What steps could the Government, stakeholders, or industry take to support a smooth move to a 3-yearly cycle?

The approach should recognise that the planning and design has to be truly collaborative; not simply consultative, an approach which hampered the introduction of Check Challenge Appeal in April 2017. In the same vein, there needs to be full participation in the development of draft regulations. In more detail, the following steps need to taken:

- There needs to be early sharing of technical proposals, timetables and project plans. Our comments in response to question 2, (i.e. greater and innovative

use of technology) are also relevant here; particularly the better use of geographic information systems.

- The development of the portal and the access protocols must be agreed in advance of the new 3 year cycle coming into force..
- There must be an acceptance that any technology should be utilised to optimise delivery and potentially to adopt annual revaluations. In particular:
 - What element of the service will utilise technology?
 - What is the specification of the application and will rules be adopted? If so will judgements or weightings be applied?
 - Will the engines be the first step to the use of AVMs? We are supportive of AVMs having a role to play.
 - Will this use migrate to the application of machine learning and the use of artificial intelligence? How will confidence and transparency be enhanced?
- What recommendations is the Geospatial Commission making in relation to VOA and Business Rates data? We suggest that they have an important part to play.
- We would encourage government to make a commitment to introducing a statutory leases register, with appropriate public access.

5. Do you have any other comments on the proposed approach to the move to a 3-yearly cycle?

We urge consideration of the following all of which we consider to be essential prerequisites of success:

- We believe introduction earlier than 1 April 2026 would present a number of challenges and it would be preferable to get then system right rather than for it to be rushed.
- To realise the benefits of frequent revaluations the objective should be to reduce the gap between the AVD and the introduction of the list. Delivery of this is dependent on resolving continual access to all relevant lease data.
- The three-yearly cycle must be legislated for and must be free of 'political interference'.
- These proposals must be a developed through a collaborative approach between the VOA and stakeholders.

- The package of changes in the law must be properly considered and built around fully transparent consultation.
- Another element is the need for greater transparency and this should be delivered with a fully funded transition process.
- Any new process must be sufficiently robust, practicable and efficient. Experience to date from our members concerning CCA is far from ideal.

6. Do you agree that that moving to a three-year cycle should be the Government's priority for this stage of reform, and that going further should remain an option for the future?

We support moving to a three-year for this stage of the reform as it provides a foundation on which to build a new, modern and 'fit for purpose' process. As said earlier, we support a shorter period in the longer term, but believe this would be inadvisable without first absorbing the experience of operating a three year period to ensure there are no unintended consequences created (e.g. creating uncertainty in terms of revenue generation for authorities and unpredictable tax bills for ratepayers).

An initial three-year period would also enable consideration to be given to a modern analysis and valuation assessment approach which may include alternative valuation methods, machine learning and the use of artificial intelligence along with the supply of accurate and reliable data.

There should be a clear understanding of context when looking at other jurisdictions. Before comparisons are made, the property tax in that country must be looked at in the light of their overall tax system, the tax rate and the political influences on that system. Using inappropriate country comparators does not add anything worthwhile to the consultation.

There should be an acceptance that England & Wales recurring property tax at the present level of taxation is too high in relation to other jurisdictions.

7. Would you support a move to an annual revaluations cycle or a shorter AVD in the future, accompanied by the necessary enabling reforms set out in this chapter?

As already stated, we are supportive in principle of annual or two-yearly revaluations, but such a further step must be properly resourced at the outset. An annual cycle is demanding and there is no scope for delay or failure. Any proposed annual process must be properly modelled with the input of carefully weighted impacts of non-cooperation of ratepayers and judicial intervention. There must be a clear 'proof of concept' before this significant step is taken

Annual revaluations would work more effectively if there was a universal professional acceptance of the use of AVMs and other technologies or else a move away from the rental market. Unfortunately, as a tax administration, we appear to be a long way from accepting these modern approaches. Sooner or later, this has to change.

There needs to be an increased knowledge of the practical application of machine learning and artificial intelligence in the valuation process, which is successfully deployed in other jurisdictions.

It would be useful to understand the influence of the recently awarded transformation contract in delivering a more automated system, over-and-above the use of 'rules based engines'.

A shorter AVD is an absolute must for a list more reflective of the market position and a fairer distribution of liability.

We must not lose sight of the role of the valuation process. It is but a mechanism using market evidence to provide an equitable share of the tax burden.

We would be pleased to elaborate on any of our views if you would find this helpful.

Yours Sincerely

A handwritten signature in black ink that reads "William McKee". The signature is written in a cursive, slightly slanted style.

William McKee

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