

Accessible Retail



Business Rates Update



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Agenda

- Appeal Statistics
 - VOA/ Tribunal Figures
- Check Challenge
 - Check / Challenge Issues
 - Material Change for Covid-19
 - State Aid
- Business Rates the future
 - Revaluation 2021 Postponement
 - Further Review of Business Rates
- Issues
 - Expert Witness Review
 - Decision in the “ATM” case

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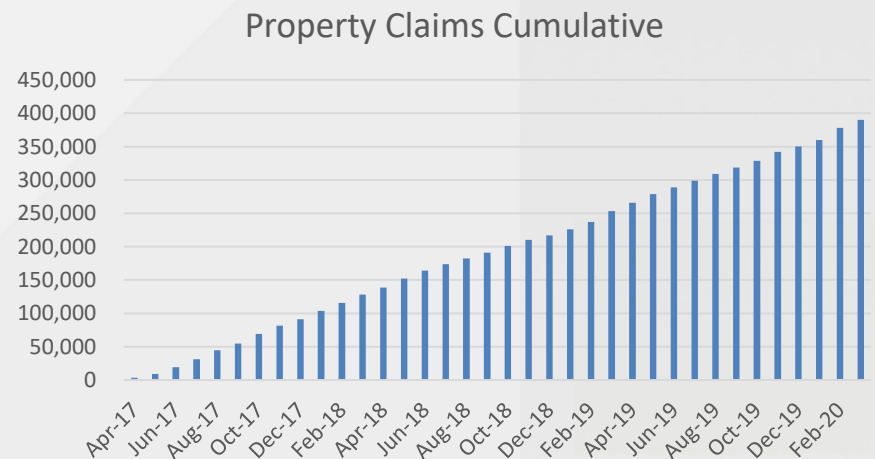
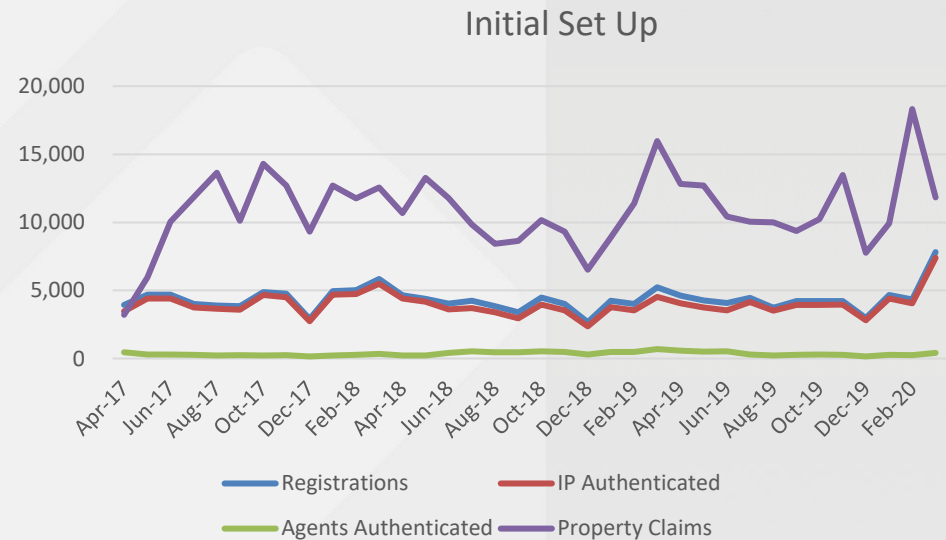
Andrew Hetherton, Andrew Hetherton Consulting Ltd.

Valuation Office Agency & Court / Tribunal Statistics

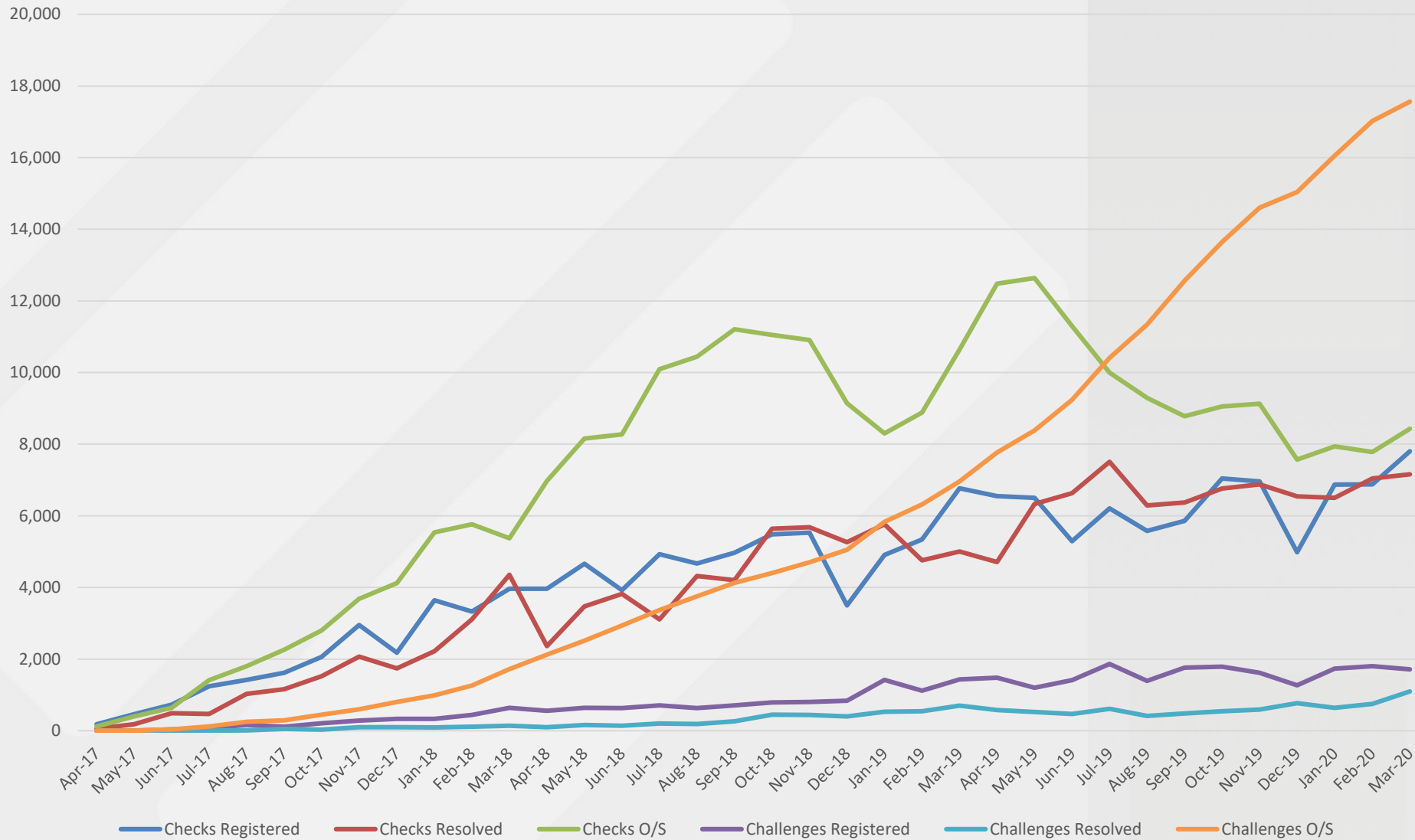


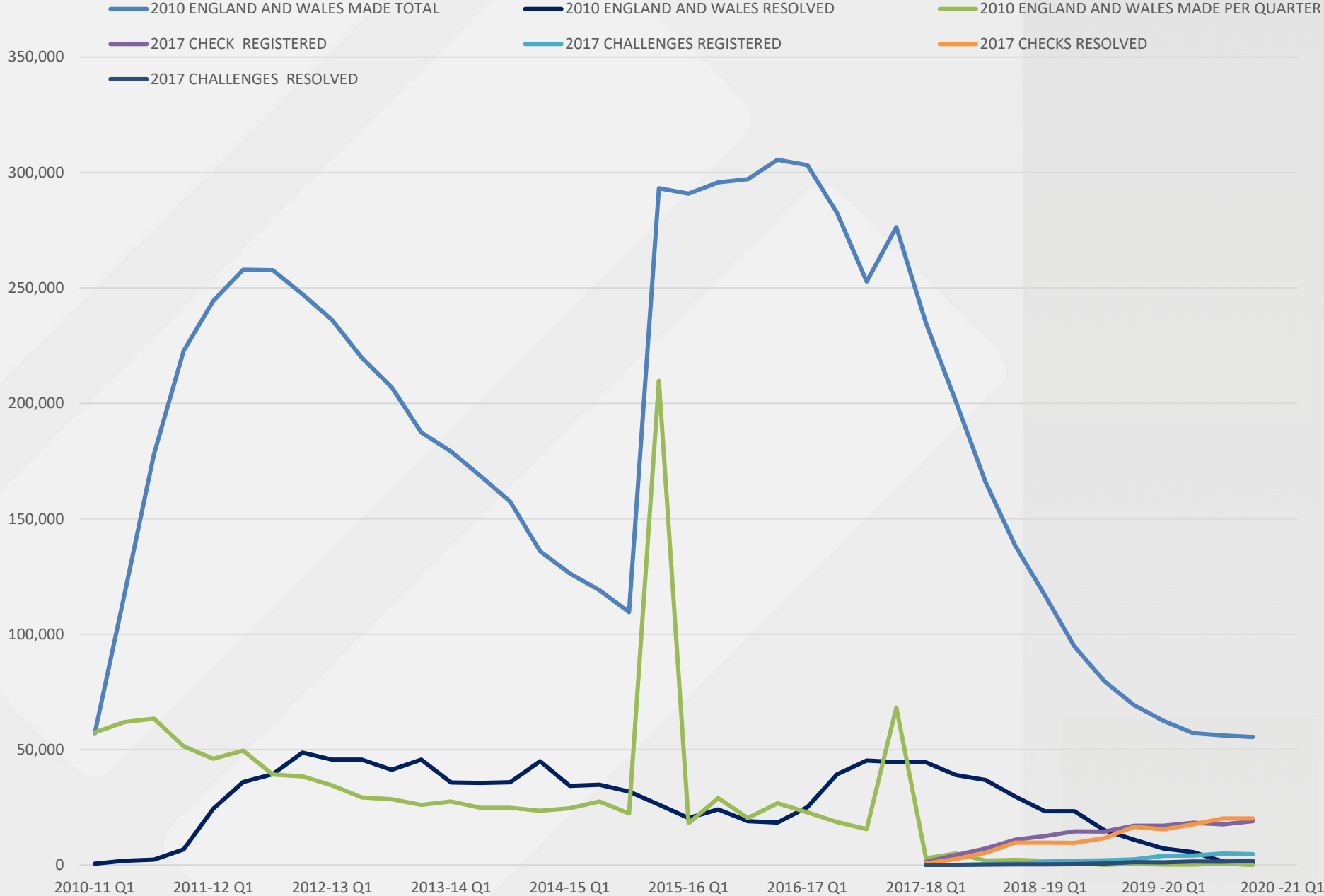
Registrations (cumulative)

- Registered Users
 - Owner / Occupier
 - Ratepayer
 - Estate Manager
 - Rating Agent
- Duplication ?
 - Moving firms
 - Technical issues
 - Trusted helper issues



Check Challenge





Valuation Tribunal Appeals



TABLE 1: Non-domestic rating appeals: 2010 rating list (England)

	1 Jan 2020 – 31 Mar 2020 (last quarter)	1 Apr 2019 – 31 Mar 2020 (year)	1 Apr 2010 – 31 Mar 2020 (since the start of the list)
Appeals brought forward	52,900	65,200	-
Appeals received	600	1,500	1,053,600
Appeals cleared	700	13,900	1,000,800
Appeals carried forward	52,800	52,800	52,800

TABLE 2: Non-domestic rating appeals: 2017 rating list (England)

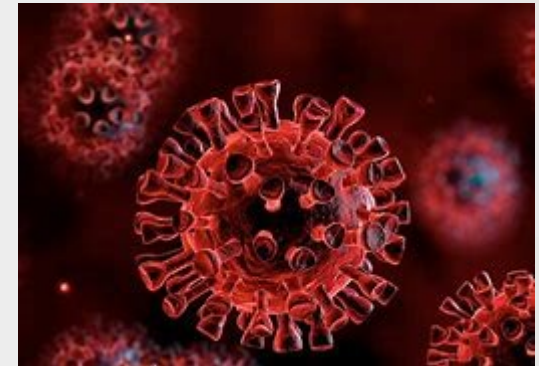
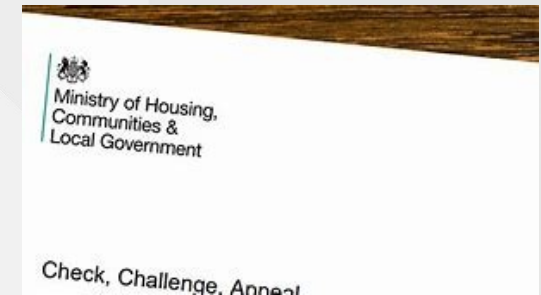
	1 Jan 2020 – 31 Mar 2020 (last quarter)	1 Apr 2019 – 31 Mar 2020 (year)	1 Apr 2017 – 31 Mar 2020 (since the start of the list)
Appeals brought forward	125	34	-
Appeals received	70	310	378
Appeals cleared	81	230	264
Appeals carried forward	114	114	114

Check, Challenge



Check, Challenge, Appeal

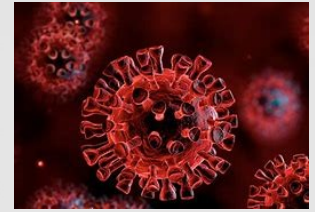
- Check, Challenge Issues
- Material Change of Circumstance (MCC) in a Covid-19 world
- Covid Reliefs and Exemptions



Check Challenge

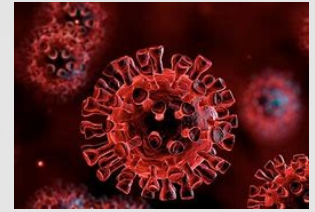
- Numbers are much lower than for 2010 List
- Issues around
 - Registration / Claiming Properties
 - Check requires detail to be confirmed +ve / -ve
 - Only Challenge once completed Check
- Submission of Challenge
 - Essential to include all the evidence
 - Extended time frame relating to MCC's

MCC Appeals for Covid-19



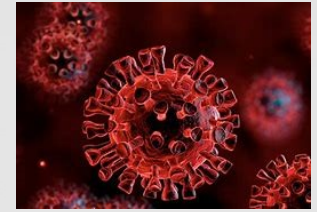
- MCC appeals might be appropriate but consider carefully and consult you agent !
- There may be opportunities
 - but first you will need to register if you've not already done so, or get you agent to do so
 - Claim your property and undertake check
 - Remember you have review and identify errors with the VOA assessment that affect your assessment which may go up or down !

MCC Appeals for Covid-19



- There has been talk of a group action but don't get hung up on that as you will still need to prove the impact on the value of your assessment
- Local Government Finance Act 1988 Sch 6 Para 2(7);
 - (a) matters affecting the physical state or physical enjoyment of the hereditament,
 - (d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and;
 - (e) the use or occupation of other premises situated in the locality of the hereditament.
- Is there a benefit in appealing properties in the Retail, Hospitality and Leisure sectors as these properties currently benefiting from not paying rates. ?
- You will need evidence to show that there has been an impact on value of your property

MCC Appeals for Covid-19



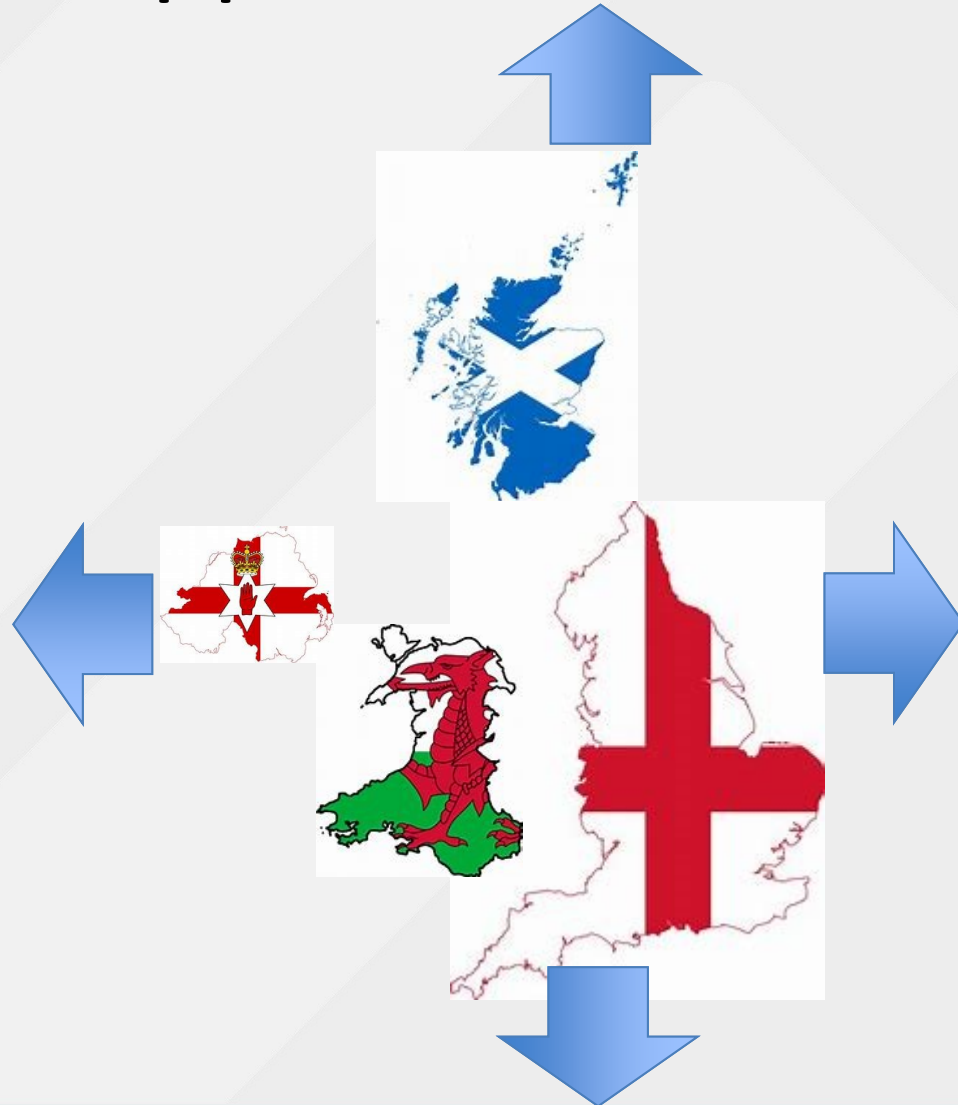
- Useful guidance on MCCs is covered in two leading cases
 - [Merlin Entertainments Group Ltd v Cox \(VO\) \[2018\] UKUT 0406 \(LC\)](#)
 - [Wigan Football Club Limited v Cox \(VO\) \[2019\] UKUT 0389 \(LC\)](#)
- It may be difficult in the first instance to show with evidence the impact that is claimed has had on the property
- If it can be proved that there is an impact the effect will be from the date on which the circumstances first occurred, but it may be necessary to submit further MCC appeals as circumstances change, partial lifting of “lock down” or a gradual increase in the numbers returning to work
- Ratepayers may therefore find a number of legal and valuation hurdles before a reduction for Covid-19 can be secured

State Aid



- Some uncertainty
 - given conflicting guidance
 - Interpretation down to each Local Authority
- If all in a sector granted relief there should not be an issue with providing state aid but;
 - Complaints raised by those excluded
 - Limits still apply €800,000 (Temp Framework) in addition to the €200,000 de minimus limit

Different Approaches



Different Approaches

- There is a continuing divergence in approach across each of the devolved countries
 - Barclay Review (Scotland)
 - Business Rates Review (Wales)
 - Several Administrative and Fundamental Reviews (England)
 - Northern Ireland (differing revs and rates)
 - Approach to Transitional Relief different
- The same can be said to the approach to support for business following Covid-19

Themes

SCAM
ALERT
DON'T BE FOOLED

- Support for small business with Business Grants
 - typically £10k / £25k depending on size
- Relief from rates for Retail, Hospitality & Leisure sectors
 - varies by country
- Ability to make Material Change Appeals
 - limited in Scotland
 - difficult in Northern Ireland
- Some “shift” in approach
 - eligibility and discretion introduced at the margins,
 - some local authorities struggling to implement the reliefs
 - Concerns about fraud both in terms of fraudulent applications
 - Scams seeking disclosure of bank details etc



Revaluation 2021 Postponement

Further review of
business rates
& beyond



Top Shop boss calls for rates overhaul



An overhaul of business rates is vital to save Britain's high streets

If the Government is serious about supporting the high street then it has to reform business rates. It is as simple as that. The property tax has become an unfair burden on retailers, from small shop owners to FTSE 100 retailers, who equate it with more in business rates than corporation tax.

Emerging from Britain's biggest retailers, Sir Philip has a message: "The RRC clearly opposes a change to make levying the high street a water-logging exercise."

Mr Osborne promised a 100 per cent rate increase for the smallest business another year. But he has now promised a 278,000 small firms relief for 2016. The discount was introduced in 2010, but the rate has risen to £1.00 per sq ft.

Mr Schreiber said that if no reforms were introduced and the present trajectory of rate increases continued, it would amount to another £500 million on the tax bill for business. The Treasury said: "Around 405,000 of the smallest businesses will continue to receive 100 per cent relief from business rates with around a further 200,000 benefiting from tapering relief. The government is undertaking a review of business rates. The review will be factually neutral and will report at Budget 2016."

However, Bill Dodwell, head of tax policy at Deloitte, said rate reforms may not happen. "Given that the chancellor did talk at length about supporting the high street, it is not surprising that the Government has decided to do more to support the high street."

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Shops face £500m rate rise as relief is scrapped

SIMON REVILLE

Business rates bills for more than a quarter of a million small retailers, bars and cafes are set to rise by nearly £500m following the Chancellor's Autumn Statement.

Mr Osborne promised a 100 per cent rate increase for the smallest business another year. But he has now promised a 278,000 small firms relief for 2016. The discount was introduced in 2010, but the rate has risen to £1.00 per sq ft.

Leaders angered as long-overdue rates reform is pushed back to the spring

Robert Lea, Industrial Editor

Industry leaders have reacted with anger at another delay from George Osborne in the reform of business rates. The chancellor told the Commons: "Our overall review of business rates will report at the budget but I am today helping 600,000 of our smallest businesses by extending our small business rate relief scheme for another year."

Caroly Fairbairn, the new director-general of the CBI, said: "It's disappointing to see the promised response to the structural review of business rates pushed back to the 2016 budget. The current system is based on a decades-old

small businesses especially — need reform and clearly as soon as possible over their future business rates liabilities."

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Sainsbury's chief slams business rates as a historical anachronism

BY KASIMIRA JEFFORD

Business rates bills for more than a quarter of a million small retailers, bars and cafes are set to rise by nearly £500m following the Chancellor's Autumn Statement.

TWO of Britain's leading retail chiefs yesterday continued their crusade against business rates burdening the high street, labelling the tax as a "historical anachronism".

Sainsbury's boss Justin King is among a number of retail bosses calling on the government for a level playing field on tax.

a part but a much lesser part than it has historically, our tax system that raises local taxes primarily on property, is exposed as an historical anachronism."

Terry Duddy, the chief executive of Home Retail Group who also delivered a speech, described the current regime as "ridiculous" and would stay in place until the emissions investigations, the chancellor said.

● Morrison chief urges rethink of rates regime Dalton Philips, chief executive of Wm Morrison, has added his voice to calls for a rethink of the business rates system, warning that rising rates bills are threatening the British high street. "If [rates] continue to rise, it's going to put more and more shops out of business on the high street," he said. "We want a strong

Blow for retailers as rates reform is delayed

Business rates

By Ashley Armstrong

John Lewis in shop rates plea

mean retailers have to find an extra £40m over the next five years. However, the RRC said, it was better the Government took time to get the system right than to get it wrong and then have to fix it.

The delay came as the Chancellor also confirmed that universal business rates relief for small businesses for another year, as he has done every year since 2010. The scheme, which excludes business rates on properties valued at £5,000 or less, is estimated to support around 600,000 small and medium-sized companies.

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London Evening Standard

£4BN TAX RAID ON LONDON BUSINESS

Big firms fear 'catastrophic' 4.5pc surge in business rates

By Business Wire
West End and City's hardest hit as bills rocket over next year

New West End Company, which represents retailers in central London, said that the bill for 2016 will be up to 4.5pc in a single year. The suggested options will not include the bill for 2016. The suggested options will not include the bill for 2016. The suggested options will not include the bill for 2016.

CITY A.M.

CITY BRACED FOR BIZ RATE HIKES



London to bear brunt of business rates overhaul

Revaluations will lead to higher contributions of the levy in recent years. Revaluations will lead to higher contributions of the levy in recent years. Revaluations will lead to higher contributions of the levy in recent years.

urgently overhaul interview with Times, Street as needed before calculation of

Yorkshire Times
VOICE OF THE NORTH

LIFESTYLE FAMILY TRAVEL SPORTS

Outrage As Government Postpones 2015 Business Rates Revaluation





MHCLG

~~Revaluation 2021~~

- Plan was to Revaluation in 2021 with a valuation date of 1st April 2019.
- Legislation had been introduced bringing forward from 1st April 2022 but due to recent economic impact it's not being taken forward

“We have listened to businesses and their concerns about the timing of the 2021 business rates revaluation and have acted to end that uncertainty by postponing the change.”

“Now is the time for us to continue to focus on supporting businesses affected by the pandemic, including through our unprecedented package of almost £10 billion in business rates relief.”



Outcome of a 2021 Revaluation ?

- VOA completed 96% of the revaluation prior to the announced postponement
- VOA will complete the exercise “in order to have a complete view of the market”.
- It may still be possible that the Revaluation take place from 1-4-2022 but with an AVD of 1-4-2019 as order had already been laid
- So what next ?

What Next?

- Either way the objective would have been to raise the same amount of money ? So nothing has changed has it ?
- With revaluations there are always winners / losers, a key issue for many **is how bills change**
- AVD is usually 2 years prior to list coming into effect and VOA had already started to plan for a revaluation in 2024
- Many businesses have called for frequent revaluations to ensure assessments are up to date and reflect relevant market conditions

Fundamental Review



HM Treasury

- Annual Tax on non-domestic property
- Raise £25bn to fund local services
- This review to consider further work over and beyond that already implemented
- A tax based on non-residential land and property tends to be stable and predictable

Objectives: Fundamental Review



HM Treasury

- Reducing the overall burden on businesses
- improving the current business rates system
- considering more fundamental changes in the medium-to-long term
- Focus on 4 main areas:
 1. Improvements that could be made from April 2021, alongside the forthcoming revaluation including regarding the Transitional Relief Scheme
 2. reforms to the current business rates system to put the tax on a more sustainable basis.

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Objectives: Fundamental Review



HM Treasury

3. the administration of business rates, covering the valuation and appeals process; billing; and compliance with the tax
4. exploring alternatives to business rates, particularly within the taxation of land and property.

Scope / Timetable:



HM Treasury

- Scope:
 - role of business rates funding of local government & local services, the impact on business rates retention
 - delivery of existing reforms to the system (CCA)
 - practical challenges of any reforms, necessary compromises
 - implications of the current / future subsidy control regimes
 - the implications for the devolved administrations
- Timetable:
 - Working toward a Call for evidence Spring 2020
 - Report Autumn 2020
- An emergency Budget may be on the horizon perhaps?



Update on Expert Witness



Expert Witness Working Party

- Following cases in the Upper Tribunal a number of matters were referred to the RICS
- RICS formed a working party to consider the current guidance and practice statements on Expert Witness
 - [Practice Statement & Guidance Note](#)
 - [Client Guide](#)
 - [Conflicts of Interest](#)
 - [RICS / IRRV / RSA Rating Consultancy Code of Conduct](#)

Expert Witness Working Party

- Terms of Reference:
 - Review Practice Statements
 - Review Guidance Notes
 - Draft appropriate changes
 - Consultation Planned
 - Initially with Rating Consultants
 - The wider RICS Community to follow
- Updating of relevant case law and guidance linked to recent cases considered by courts and tribunals
- Issues - not to be prescriptive but also raises questions about assisting surveyors, firms and their clients about what is and is not acceptable



Expected Timetable

- Working to continue deliberations
- Originally a formal Consultation early in 2020
- Likely implementation from mid “summer” 2020

NOW

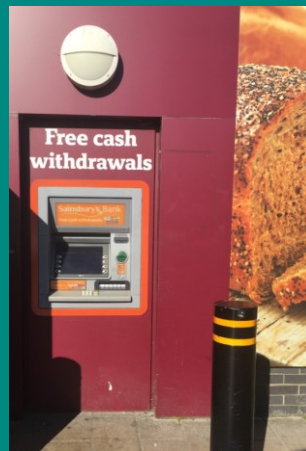
- Delayed due to Covid-19
- RICS staff furloughed
- Difficult to obtain a consensus on a way forward

ATM Decision

Cardtronics & Others

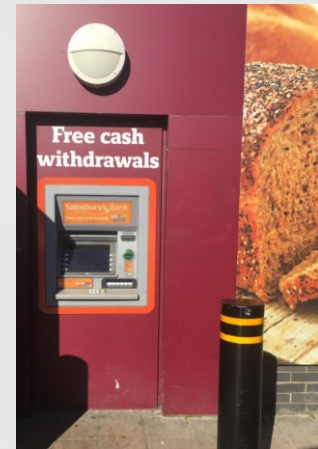
v

Sykes (VO) & others



Assessment of ATMs

- [Sykes \(VO\) and Others v Cardtronics UK Ltd and Others UKSC 2018 0225](#)
- The issue:
 - Should sites of ATMs at foodstores & convenience stores be separate assessment from the “host” store
 - VO enquiries commenced following two cases in Scotland
 - Initial enquiries led to swaths of ATMs being assessed
 - 11 lead cases were identified following assessment by the VO
- Valuation Tribunal Hearing
 - All separate assessments – appeals dismissed
- Lands Tribunal Hearing
 - External ATM sites separate Assessments
 - Differentiation for ATMs internally
- Court of Appeal
 - Finds none of the ATM sites separate hereditaments
 - All remain in the paramount control of the “host store”
 - VOA seek permission to UK Supreme Court refused by CoA



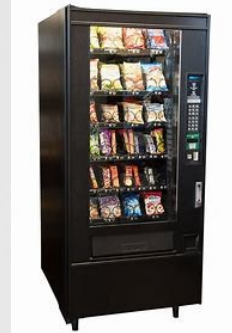
Supreme Court

[Sykes \(VO\) & Others v Cardtronics UK Ltd & Others UKSC 2018 0225](#)



Key takeaway issues:

- The appellate courts take very careful consideration of the decisions of specialist Tribunals such as the Lands Tribunal
- Focus of attention rested on control but also has to take account of the context and application
- The principle of the Landlords control is elevated in importance
- Wider implications on other assessments
 - Instore concessions & cafes
 - Vending machines
 - Lottery terminals
 - Other machines inc photo booths, coinstar machines, child rides
 - Taxi phones
 - Airport retailing
 - Click and collect / Collection points



Conclusions

- Problems persist with claiming, checking and challenging assessments, albeit a further year remains for now
- Challenges / Appeals still taking some time to resolve
- A range of reliefs and grants available (for most but not all)
- Revaluation 2021 certainly cancelled but the key will be what will happen about 2022 and beyond
- Expect further consultation on the fundamentals of Business Rates, be wary of what might follow....
- The approach and issues around practice and assessment in rating will continue to evolve and develop for the time being reflecting guidance and case law issued by the courts

Questions via the Chat Room ?

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