

THE SHOPKEEPERS' CAMPAIGN'S RESPONSE

TO HM TREASURY'S BUSINESS RATES REVIEW CONSULTATION - MORE FREQUENT REVALUATIONS

July 2021

Consultation Questions –

Chapter 2.

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. (2000 words)

This “package of measures” (which pertains to revaluations only) does not come close to what can reasonably be termed “fundamental reform”, given the scale of policy changes required to introduce a modern system of taxation which has any potential to fuel, as opposed to stifle, economic rejuvenation in our high streets. We note that “work continues on the other elements of the Fundamental Review in response to the views expressed in the call for evidence”, and we expect further consultation on other aspects of the business rates system over the summer.

There is no “fair and balanced trade off” in the proposals set out in this consultation paper. Ratepayers are being asked to comply with many new requirements for the bureaucratic convenience of the VOA, for marginal and insufficient benefit in return. “Fair and balanced” suggests a level of equivalence, but none exists here. In any event, given that the Government already announced an intention to move to a three-yearly cycle of revaluation in the Autumn 2017 Budget, this proposal is not new. It does not even therefore represent a change in policy, it would be implementation of previous policy and it is certainly not the promised fundamental reform, nor even fundamental reform of the revaluation issues. A move from 5 yearly to 3 yearly revaluations is no more than tinkering which would bring very marginal benefits.

The proposal would only represent a fair and balanced trade-off if it was part of a genuine package of fundamental reform of the business rates system including revaluations. Any move to three yearly revaluations must be part of a planned speedy transition to annual revaluations.

The Shopkeepers' Campaign could support greater reporting requirements on ratepayers to improve the accuracy of the list – as a “fair and balanced trade off” for rateable values and rate bills which were truly responsive to changes in prevailing market circumstances, as part of a package of reforms previously recommended in our responses to the Fundamental Review consultations, the Budget and the Interim Report.

Specifically, in relation to the administrative arrangements proposed in this consultation:

- we support the new Duty to Notify, *if the property's rating can then be rapidly adjusted on receipt of the information by the VOA*
- we support an annual confirmation return, *but only if the rating assessment for the property is also updated by the VOA annually based upon up-to-date property rental values*
- we support mandatory provision of lease information, *but this is not necessary every year if the revaluation cycle is every three years*

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. (500 words)

Any requirement for ratepayers to comply with the Duty to Notify and mandatory provision of lease information should be counterbalanced by a requirement on the VOA to produce equally timely rating assessments. It is unacceptable to impose so many requirements annually on ratepayers if the VOA is then not equipped to action them for up to three years before producing a new rating assessment, by which time the three year old data will be out of date. This is not a “fair and balanced” approach.

The VOA has a very weak record of IT implementation. The move to the system of Check, Challenge and Appeal (CCA) in 2017 was a total failure on launch. It has taken years to get to a system which is beginning to be workable. Any new obligations on ratepayers must be linked to a fully operational IT reporting system, which comes pre-populated with all the data previously supplied, not one in which submissions have to start afresh each year.

An annual system of revaluation would make it easier to design a new IT system which retains information and updates valuations in real time as new information is presented to the VOA on an open-book reporting requirement. Open information – involving reporting of rental information by ratepayers as well as reporting of the underlying evidence used to support the rating valuations by the VOA – would remove the need for the Check stage. This requires a fundamental change of culture in the VOA, which should move towards a more transparent, cooperative and efficient way of working. No-one objects to paying a fair level of tax, calculated in a manner which they understand and where the assessing body has a duty to justify its assessments to the taxpayer.

The Republic of Ireland maintains an open book lease register with mandatory requirements to supply full lease data. There is no fee to access the information and we are not aware of any overriding issues that ought to prevent a similar approach in England.

If the three yearly cycle is to be implemented, grounds for appeal should continue to include Material Changes of Circumstance (MCCs). However, we agree with HM Treasury that a faster revaluation cycle will ensure that changes are captured at revaluations sooner; under a system of annual revaluations we believe one could fairly limit appeals on MCC grounds to those which affect the physical state of the hereditament.

We could support the introduction of a fee for submitting a challenge but only if there was an obligation placed upon the VOA to justify its valuation assessments to ratepayers, by disclosing the relevant rental evidence at the time of the publication of the updated valuation. This justification should be provided upon request at revaluation, without a fee charge and prior to any challenge.

Reducing the window for making Challenges to three months from the beginning of the list is not reasonable under a system which takes three years for the VOA to revalue a property.

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? (500 words)

We support the principle of fully transparent assessment. It will not just create the perception of fairness; it will enable assessment to be genuinely fairer. The real time provision of appropriate lease information must be stored within a fully digitised system, accessible to the ratepayer. This will require a material upgrade to the existing outdated VOA IT system.

The investment needed for the upgrades to VOA processes should be funded by the Treasury as sponsor of the tax collection process. It is not acceptable for a fee to be charged to ratepayers who merely want to understand the basis of their assessment. It is a fundamental principle of taxation that the taxpayer should understand the reasons for the amount payable. If the Government was genuinely aiming for a “fair and balanced” approach, transparency should cut both ways, with the tax assessor and taxpayer under equivalent obligations to be transparent.

The Government is suggesting that Phase 1 will include the release of guidance covering, inter alia, “a class specific valuation approach”. There is no clarity in the consultation paper as to what this means, but if it is generic guidance on the valuation of shops and a broad range of values adopted without provision of the actual rental evidence used, similar to existing VOA valuation schemes, then we do not support this.

Chapter 3

4. What steps could the Government, stakeholders, or industry take to support a smooth move to a 3-yearly cycle? (1000 words)

A three-yearly cycle will leave us with a business rates system which does not work.

We are being asked to move from a system where a business can be charged for occupation of a property based on a valuation made seven years beforehand (five yearly revaluations plus two year AVD), to a system where a business can be charged for occupation of a property based on a valuation made five years beforehand. This is absurd.

The business rates system is broken. Moving to three yearly revaluations will not fix it: it will make it more likely that the system will have to be swept away completely.

The VOA does not have a strong record of implementing reforms in cooperation with the business community. We are still seeing the fallout today created by the failure of the VOA and Treasury to listen before introducing the Check, Challenge and Appeal system.

However, the fear that more frequent revaluations will result in more appeals is misplaced. Valuations that more closely match the market values of premises will be challenged less. Business does not want

to appeal valuations (it costs them unnecessary time and money and brings uncertainty) but it does so because of the lack of transparency from the VOA and the potential savings on offer when rateable values are used to calculate rate bills for a significant period. We expand on this below.

If the principal reason for not moving to annual revaluations is inability of the VOA to adapt to new systems, then we need to see a fundamental change of culture at the VOA. Its management could be better incentivised to deliver annual revaluations, or its management could be taken over by another branch of government. Another alternative would be hold a tender for an outside body to carry out valuations.

Through the introduction of self-assessment and Making Tax Digital, HMRC has shown that it is perfectly possible to modernise a tax system, with greater transparency and cooperation between taxpayer and assessor. VOA should be capable of introducing similar reforms – and, if the will was there, they could be a raging success.

A digitised, annual system of revaluation will be cheaper to implement because there would be fewer appeals and more information available. The VOA needs to be building and testing the IT system in advance of it being rolled out nationwide. ‘Soft launches’ on ratepayers can have the effect of undermining their faith in the VOA to get it right. The new system should be introduced across England at the same time, with an open and transparent explanation to ratepayers as to how their rateable value and rates bill has been arrived at.

A smooth transition to a more frequent cycle of valuation can only be achieved through annual revaluations, with an antecedent value date should be fixed at no more than one year prior to each revaluation. Shortening the revaluation cycle to three years makes little sense even in the first year of the three year cycle, given that values will be two years out of date by the time they are first used for calculating rates liability. There should be immediate application of new Rateable Values following revaluation, with no transitional arrangements. Business rates bills would then more accurately reflect market rents and more recent market rent movement. It would allow all non-domestic ratepayers to benefit equitably from an adjustment in business rates payable.

5. Do you have any other comments on the proposed approach to the move? (1000 words)

It is said in the consultation document that the move to three yearly cycles is a “fundamental reform”. Owners and occupiers do not regard this as fundamental reform. Even if the move were to annual revaluations, this would only be one element of the “fundamental reform” package that is needed; what is on offer is merely a restatement of government policy since 2017. On 22 November 2017, Chancellor Philip Hammond stated *“I have heard the concerns about the 5 yearly revaluation system. Shorter revaluation periods will reduce the size of changes in valuations. So I can announce today that after the next revaluation, future revaluations will take place every three years.”*

It is said in the consultation document that the measures “represent a significant long term package of reforms that will take a number of years to implement”. As we have made clear above, this cannot by any stretch be described as a “significant” package of reforms relative to the reforms urgently needed. As regards requiring years to implement, Government has demonstrated how it is capable of moving swiftly and radically during 2020. It should apply such ambition to resolving the immense barrier to

growth that business rates represent. The crisis in “bricks and mortar” retail is not going to be resolved by taking many years over implementing these reforms. The system is broken and genuinely radical reforms need to be in place by 2023 to stop high streets and town centres becoming wastelands, with knock-on implications for millions of jobs and communities.

The process of revaluation could be speeded up to annual cycles more easily by fixing the UBR multiplier and removing the legislative requirement for revaluations to be fiscally neutral so that rates bills move directly in line with changes in property rental values.

Chapter 4

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? (1000 words)

The consultation paper reveals unfortunately that the Government has no sense of the scale of the challenge that companies are facing with an unreformed business rates regime, and its timid proposals for revaluation reform do not even come close to the fundamental reforms that are needed. A far more ambitious Government plan of action should be introduced here.

The case for annual revaluations

Moving immediately to an annual cycle of revaluation (together with a substantial cut in the UBR) would represent the reform of the regime that is needed. We do not agree that moving to a three year cycle would fix the system at all.

We do not think the Government has justified why it would have to restrict appeal rights if valuation frequency was increased, albeit we have recognised that with annual valuations one could restrict MCC appeal rights (see answer to Question 2 above). The appeals process could be speeded up at the same time as the move to annual revaluations. What is totally absent from the Government’s thinking in relation to appeals is the mindset of business ratepayers. They have no desire as such to appeal their assessments and do so only if:

- (1) there is a need to do so in order to receive the evidence used to value their premises; and
- (2) if there are sufficient savings potentially achievable through the appeals route to justify lodging a challenge.

If there was a requirement for ratepayers to provide lease data as soon as the rent or other relevant terms change and if there was a requirement for the VOA to share relevant underlying evidence with ratepayers without engaging with an appeals process, this would remove the need for a challenge to ascertain the relevant evidence. Business would also have a substantially reduced incentive to appeal because the savings they could achieve would endure for a maximum of one year.

In paragraph 4.5, it is suggested that it is somehow a drawback that “in a rising market, economy-wide or localised economic growth would more quickly pass through to higher rateable values, and relative burdens would shift more rapidly”. We would welcome any rapid shift in rateable values – up or down - that more closely resemble prevailing market circumstances.

In paragraph 4.6, it is suggested that “a rapidly updating system would mean less certainty for firms and local authorities, because liabilities could not be forecast more than 12 months in advance”. There is much less certainty under a three year cycle of revaluation because of the significantly greater shifts, in rateable values that take place every three years with no warning. There would be less fluctuation each year under a system of annual revaluation and therefore easier for businesses to manage. Rates would then be no different to many other input costs, such as costs of manufacture, or salaries, which too cannot be predicted with certainty many years ahead.

If the Government needed any reminding of how inappropriate it would be to introduce three-yearly revaluations (with a two-yearly antecedent date), then they only need consider how much the commercial property market has changed over the past five years as a result of:

- the Brexit vote and consequences (2016 onwards)
- the Covid-19 pandemic (2020)
- the growth in online retail and bankruptcies of many of the UK’s leading high street brands (2016 onwards)

Yet business rates, based on a 2015 antecedent valuation date, are being demanded of retailers whose profits do not cover them and of landlords who cannot let the space.

In paragraph 4.7, it is not stated what percentage of respondents expressly supported three yearly cycles. It is clear that 40% of respondents expressly called for annual revaluations; we believe many more would support annual revaluations if asked what frequency they would want them to be. The respondents to the Government’s consultation believed it was already the Government’s policy to move to three yearly cycles. Any expression of support for more frequent valuations should be interpreted as wanting to move beyond three yearly cycles.

It is not acceptable to state that the VOA would find annual revaluations and a shorter AVD gap too challenging to deliver. The Government should have the ambition and determination to put in better management - systems and processes - of VOA to achieve the promised fundamental reform.

If the VOA is not capable of reforming itself, then the Treasury should put out to tender a contract for the annual revaluation of non-domestic properties in England. There are plenty of professional services firms that would willingly bid for the work.

For several decades, companies have paid more and more in business rates. Faced with a system at breaking point, the Government still lacks the ambition to reform it properly. It appears to have listened without challenge to the VOA about what it is capable of doing, rather than considering the process changes that would make annual valuations deliverable or a new or reformed body to undertake valuations making full use of open-book lease information provided.

It is an illogical argument that we cannot imitate Hong Kong, which has annual revaluations, because it contains relatively fewer non-domestic properties than England. Hong Kong is a smaller territory! If England were to run its system at a cost proportionate to Hong Kong’s costs, then England could also have annual revaluations. It is also relevant that the tax rate (UBR) in Hong Kong is significantly lower than in England and lower taxes lead to lesser desire to appeal. The same effect would be felt if the UBR was cut significantly as we have called for.

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? (1000 words)

The Shopkeepers Campaign urges the Government to move to annual revaluations from the outset (the first new rates bills being levied in April 2023) with a one year AVD as will apply for the revaluation in Scotland in 2023 – proving that competent professional valuers do not need a 2 year AVD gap.

Shorter AVDs will mean business rates will more closely track market rents. Rates, if adjusted annually to reflect market movement, will no longer diverge from market rent levels, making the business rates system fairer for those who pay (as opposed to just making it easier for those who collect the rates).

Longer AVDs simply give the VOA more time to verify a value from the past, a value which will probably bear no relation to more recent circumstances.

The point of open book provision of lease information is that it enables the VOA to respond rapidly to changes in market conditions; mandatory provision of this information overrides the need for a significant AVD gap. Twelve months is more than adequate.

Draft lists are not necessary under a system of annual revaluation, which will in any case contain far fewer challenges to valuations.

Without reducing the AVD gap, and if moving to three yearly valuations, we will still face situations where companies are paying rates bills that bear no relation whatsoever to the rent that they are paying. Paying rates bills based on valuations that are five years out of date is unacceptable.

The Treasury needs to think again, and to devise a system which restores ratepayer confidence in the business rates system.