

Department for Levelling Up, Housing and Communities

HM Treasury

22 February 2022

**Business Rates Review: Technical Consultation**

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 and in the retail industry and many of our members trade across Europe and beyond. The sector accounts for a 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**

AR welcomed the increase the frequency of business rates revaluations in England announced in the autumn Budget 2021. It is a reform we have so ught for many years.

However, the reforms announced to date will not on their own be sufficient to fix the broken business rates system.Above all, the overall burden of business rates should be reduced by resetting the multiplier much closer to its level when the current system was first introduced. In addition, we urge the abolition of downwards transitioning from the 2023 revaluation to ensure that the economically challenged retail sector pays business rates at a level that accurately reflects the fall in market values across most towns and cities in the UK, a projected £8.5bn boost to level the playing field between online-only and bricks and mortar retailers and to level up with areas outside the south-east which have seen the biggest drop in market rent levels.

Our response to the consultation questions is set out below. First, however, we wish to emphasise the following issues which go to the heart of the reforms and if not addressed, will undermine the improvements sought by the Government and result in unfairness to ratepayers vis a vis the VOA.

We do not support:

* **A duty to notify period of only 30 days.** Ratepayers need a minimum of three months to provide information to the VOA on changes to occupier and property characteristics. As a minimum, the current period of 56 days should be maintained. To ensure the system is operated fairly to both parties, **the VOA should be required to fact within the same time constraint** to alter the list if that is required. **Further, any increase should not be backdated.**
* **A three-month challenge period.** Ratepayers should have at least 12 months from the publication of the list to submit a challenge. As a minimum, there should be a three month period following the publication of the draft list and a further six months after it comes into effect (as was the case in the 2000 and 2005 lists).
* **An annual compliance return alongside the duty to notify the VOA of relevant events.** This is an unnecessary burden on ratepayers especially for owners of large portfolios who will have to complete multiple returns if there is a relevant event such as a lease renewal and then have to submit a general return only a few months later.
* While we welcome the offer of **improvement relief, it is time limited and will not have a significant impact.**
* **The level of the proposed penalties and sanctions for non-compliance.** These are neither proportionate or fair and little guidance is given on how to avoid them.

We are concerned at:

* Lack of detail on how the new information provision system will work. The trade and professional bodies representing the retail and property industries strongly urge a specific working group is needed to ensure the new system will work before it is implemented. Stakeholder representation should include PBLG, agents, local authorities and professional and trade bodies. It should not cover details of EComs which relate to the API, but focus on the detail relating to these proposed changes.
* The significant additional burden and cost of compliance placed on ratepayers. Providing the level of data now being required may well necessitate ratepayers seeking the advice of professional consultants. This is only justifiable if there is a move to one-year AVD and annual revaluations once the new systems are in place. We consider this should be achievable by 2026.
* The lack of an obligation placed on the VOA to action any value significant changes reported by ratepayers through the duty to notify within a prescribed time. We suggest six months.
* The opportunity has been missed to avoid costly duplication of effort by ratepayers. Once information has been given to one part of the Government system, there is no duty on the latter to pass it on to other parts of Government which need to know it.
* Regarding landlord accountabilities, little account has been taken of the circumstances where occupiers do not inform owners of relevant changes they have made to the property. Often owners only become aware of these changes when occupation ceases.

We advocate:

* The VOA should consult on the detail of its proposals for Phase 2 transparency.
* Phase 2 transparency should come in before the proposed 2026 date.
* The VOA should base its views on actual transactions, not what they think they amount to i.e. based on fact rather than opinion.
* While the changes to P&M regulations are supported, they are limited in scope and there should be a full review.
* The system is rigorously tested and piloted before being deployed.
* Ratepayers receive adequate advice and guidance, including access to real-time support.
* We support the increased support for the installation of green plant and machinery, but to make investment worthwhile, relief needs to be available for more than one year.

**Answers to Questions**

Q1. (a) Do you have any views on the proposed implementation of the information provision system? (b) What issues should be considered in the design of the new system?

(a).

We support the principle of ratepayers providing real-time information to the VOA in return for significant system improvements.

We welcome the commitment that the new information provision system will be easy to use, place a minimum burden on ratepayers, adopt a light touch approach on enforcement and be cost effective for both taxpayers and the VOA. However, as proposed so far, a fair balance of benefit between the ratepayer and the VOA is not achieved. In particular, costly data provision obligations are placed on the ratepayer within unreasonably short timescales and the right of challenge severely curtailed but in return, no obligation is imposed on the VOA to consider actual transactions rather than presumed data or to make available to ratepayers the basis on which it has determined its view on a valuation.

(b).

The new system should be integrated with other parts of Government so that taxpayers are not being asked to provide the same information several times to different parts of national and local government. If systems necessary to achieve this are developed and installed together and beforehand, key lease information can be shared automatically between the VOA, HMRC and HMLR.

The consultation paper lacks essential detail on how the new information provision system will work. We believe that to ensure it works to the benefit of both parties, there needs to be early consultation with the real estate sector and ratepayers on the detail of the new system.

Q2. (a) Can you see any difficulties in collecting this information or providing it to the VOA? (b) Is there any further information that should be provided?

The aim should be collect less data rather than more information. In particular, we are opposed to the need for both an annual confirmation return and a duty to notify the VOA of periodic lease and property changes. It is burdensome and therefore unreasonable to require both.

Q3. How can the VOA best help customers to understand what is needed and how to provide it?

By early system piloting and testing to ensure the desired functionality is achieved by both the VOA and ratepayers before the latter are expected to use it and the subsequent provision of a help line or portal through which queries can be directed and answered in real time. It is important that the VOA learns up front the issues and challenges which will confront ratepayers and designs the system accordingly.

Unless clear guidelines or examples of what should and should not be included in notifications is provided, the threat of sanctions for non-compliance may well result in many ratepayers reporting changes that do not need to be provided. The availability of guidance, information papers, glossaries, and explanations of key concepts would be invaluable.

Q4. How do you want to be engaged with as this system is developed?

We would wish Accessible Retail to be consulted on an ongoing basis as the system is developed and taken forward. If the working party we suggested earlier is convened, we would wish to be invited to join and participate in its deliberations.

Q5. Does the proposed framework strike the right balance between a system of proportionate and flexible sanctions, and one which helps ratepayers to meet their obligations?

No. The proposals are unfairly balanced in favour of the VOA and against the ratepayer both in terms of the obligations imposed regarding the provision of data and the opportunity to challenge VOA valuations. The result is a heavy and costly burden to ratepayers.

Having said that and without detracting from our primary concern of unfairness, we welcome the commitment that the proposed sanctions regime will not be in place until the government is satisfied that ratepayers can efficiently submit their information through the online service. .

The following changes would help address this:

* A commitment to a one year AVD from 2026 and annual revaluations soon after.
* The requirement for an annual compliance return dropped.
* The duty to notify period of 30 days extended to at least three months.
* A duty to respond placed on the VOA to action any value significant changes identified as part of the duty to notify process within a prescribed time. We would suggest six months. As will be the case for ratepayers, there should be sanctions on the VOA if they fail to respond with the deadline.

Q6. What would you wish to see in an online service to best help ratepayers meet their obligations?

Above all, the system needs to s**i**mple, reasonable in cost, fast and easy to use for ratepayers. Also, it needs to be integrated with other Government systems and databases and ratepayers need to be able to draw on real time support.

Q7. Under what circumstances would 30 days not be enough time for ratepayers to meet their obligations?

It will be challenging for ratepayers to know which changes to notify. Many including those familiar with the system will want to seek professional advice before submitting their returns, which will take time.

Q8. What processes might ratepayers have to put in place to meet their obligations and what costs might this bring?

Ratepayers will need to access professional advice and professional services to comply with the new requirements. This will have a significant cost and involve a delay.

Q9. Do you have any suggestions for how this compliance framework could be improved? If so, please provide evidence or scenarios.

See our comments earlier.

Q10. Do you consider that the proposed reform to the rules on MCCs will ensure that changes in economic factors, market conditions or changes in the general level of rents are reflected at revaluations? If not why not?

No. The proposed period for future revaluations is three years based on a valuation date two years before which means valuations could be up to five years out of date. This and the fact that legislation, licensing changes or guidance have the potential to impact the benefits from occupation of property, means occupants and properties could be unfairly impacted, potentially for a significant time period.

We suggest it may be inadvisable to remove the suggested factors from the scope of MCC challenges but work on the information gathering and administrative improvements outlined in the proposals in order to support accurate and equitable rating lists more broadly. We think reform to MCC challenges could perhaps be reconsidered at the point annual revaluations are introduced.

The proposed reforms may limit the grounds for a MCC claim, but we do not support them. A ratepayer should not have to wait until the next revaluation before changes in legislation and regulation that impact on the rateable value (RV) of their property are reflected in their business rates. The proposed reforms should be delayed until we have moved to a system of annual revaluations.

Q11. (a) What are your views on the proposed improvements to the CCA system? (b) How else could we improve CCA in a system under which ratepayers are now providing information under the new duties?

(a)

We oppose a three-month period for submitting Challenges as it will not give ratepayers sufficient time to review assessments and prepare cases, not least because it is likely there are insufficient numbers of rating advisers in the market for all reasonable challenges to be brought within such a short timescale.

The Government has expressed a wish to reduce the number of protective challenges, but a reduced timescale may well cause an increase in such challenges. Also, rather than reducing the amount of litigation attached to rating matters, early challenges made without time to consider the facts, merits of challenge and developing list might actually result in an increase.

(b)

The period should be at least 12 months from the date the draft list is published.

Q12. Are there particular considerations that the respondents consider the government should have particular regard to when moving forward with phase 2 of transparency?

Improved transparency is a key gain which ratepayers want from the new system. The Phase 1 measures offer little new, but the Phase 2 measures have real potential to address long-standing concerns about how Rateable Values (RV) are determined.

Where the proposals specify a ‘fuller analysis of rental evidence used to set an RV for a specific property’, this must include a duty placed on the VOA to explain in full how the RV has been determined, including all relevant facts and data, so that ratepayers can carry out their own assessment.

Q13. Will the proposed rules for the improvement relief ensure the relief flows to occupiers who are investing in their business?

We welcome the offer of some improvement relief for ratepayers but consider it insufficient to incentivise increasing levels of investment. Twelve months relief is too short and unlikely to be sufficient to positively influence a decision to invest in property improvements.

Q14. (a) Do you consider that the 2 conditions will give effect to the stated policy intent? (b) Do you have any concerns regarding the practical application of the conditions as set out?

(a)

Yes.

(b)

Yes. The proposals are welcome but they have not considered the impact this could have on properties which do not experience any increase in rateable value following improvement works as a consequence of other works including demolition works. This penalises businesses seeking to upgrade and premises and introduce modern and innovative technology in a rapidly changing and evolving market.

Regarding the occupation condition, we believe this would lead to greater investment were it extended to enable subsequent ratepayers to benefit from the relief. This would encourage initial investments in improvement and maximise the effectiveness of the incentive scheme.

Q15. Do you agree that the proposed method of reaching the chargeable amount will

achieve the objective of preventing ratepayers who have undertaken qualifying works from seeing an increase in their bill for 12 months as a result of the qualifying works?

We are concerned that the VOA will be the sole arbiter of what is a qualifying improvement. Consideration should be given to operating a system of self-certification or at least for there to be as procedure by which the VOA view can be challenged.

Q16. Do you agree that the proposed changes to the P&M regulations would ensure that plant and machinery used in onsite renewable energy generation and storage used with EV charging points are exempt?

We welcome the proposed changes to plant and machinery (P&M) regulations including that the exemption for renewable plant and machinery will extend until 2035. Also, we support the proposed exemption for plant and machinery used in onsite renewable energy generation and storage. However, we believe this issue is important enough to warrant a full review of the P&M regulations to ensure that they are formulated to support the Government’s net zero carbon agenda.

Q17. Do you agree that the tests we are proposing in the heat networks relief scheme will ensure the relief is correctly targeted?

Yes.

Q19. What are your views on the proposed reform to the administration of the central lise?

We are broadly in support of the reforms.

Q20. (a) Do you agree that decisions on the operation of local discretionary relief schemes should be localised to billing authorities in the way proposed? (b) Do you consider any rules should still be imposed from central government and if so why?

(a)

There are concerns around wider discretion being given to local authorities based on past inconsistencies in the way in which such reliefs are provided and their cost. We recommend the government undertakes a comprehensive review of all current exemptions and reliefs. Following such a review, the government should then set out clear national guidelines as how the exemptions and reliefs considered necessary should be implemented.

(b)

See above.

Q21. (a) Would the proposed reforms to the multiplier improve the administration of the system and if not why not? (b) Do you agree that the deadline for confirming the multiplier should no longer be tied to the approval of the local government finance report?

(a)

No comment save that the fundamental issue with the multiplier is that it is set too high. We urge again a wider review of the multiplier and indeed the general approach to property tax. Such a review could consider fixing the multiplier for three years to provide certainty and look also at Council tax which is now 30 years out of date.

(b)

No comment.

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

Yours Sincerely

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William McKee

Chief Executive, Accessible Retail,

Orb Support Ltd, PO Box 164, Saffron Walden,Essex,CB10 9AA

Email william.mckee@btclick.com

Mobile 07711 069 140