

Energy UK response the HMT consultation on more frequent revaluations for business rates

24 August 2021

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering nearly 80% of the UK's power generation and over 90% of the energy supply for the 28 million UK homes as well as businesses.

The energy industry invests £13bn annually, delivers £31bn in gross value added on top of the £95bn in economic activity through its supply chain and interaction with other sectors, and supports 738,000 jobs in every corner of the country.

We submitted responses ([part 1](#), [part 2](#)) to the call for evidence in respect of the ongoing fundamental review of business rates in autumn 2020. We are now pleased to provide our responses to the questions contained within the consultation on more frequent revaluations.

Consultation 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. (2000 words)**

We agree with the overall objectives of the consultation paper in terms of reducing the revaluation frequency to 3 years and providing greater transparency for ratepayers. We understand that to achieve these objectives that other changes are necessary, some of which place greater onus upon the ratepayer. The requirement for a duty to notify and to provide relevant tenure, rental and financial information may be appropriate but only on the basis that a fully workable online portal is established in a format agreed with ratepayer bodies. We see this as an essential prerequisite to ensure ratepayer compliance with the new regime. We have seen with the Check, Challenge system the issues that are created with instigating a new compliance regime before the IT systems are established.

An online portal would facilitate the abolition of paper requests for information. The duty to notify should be in a clear on-line format which ratepayers find easy to follow and to complete without being time consuming and cumbersome. It is important to recognise that ratepayers may not have a clear understanding of what is required to be notified so clear online guidance will be required. There should be clear materiality thresholds below which there is no requirement to supply information. Proposals for fines and penalties should be deferred until the system has been operational for a period of at least

1-2 years and should recognise the fact that many ratepayers will have limited understanding of the business rates system.

It is also important that ratepayers can submit an annual return covering a number of physical alterations to their property or properties so there is no onerous obligation to continually notify the Valuation Office Agency (VOA) over the course of the year. This would be particularly onerous on large sites where physical changes and alterations occur regularly. One submission per year should be the maximum per property and an annual return per portfolio would be advisable. This would be consistent with the annual statement required to cover tenure, rent and other financial information.

We agree that with the introduction of the duty to notify that the requirement for a check is removed. It is an additional burden for ratepayers to go through an unnecessary check stage where the issues relate to valuation and the requirement to notify changes should make the need for a check superfluous.

We strongly disagree with the requirements for all compiled list challenges to be submitted within 3 months. This seems impractical under current requirements for the completion of a challenge submission and the restriction against further evidence thereafter. Any time limit would have to be accompanied by a material reduction in the requirements for a challenge submission to a concise summary of the reasons that the valuation is inaccurate together with a proposed valuation. In our view the introduction of a time limit would be a retrograde step which risks recreating the issues for which the check, challenge, appeal system was introduced to correct. That is the mass serving of appeals (in this case challenges) as a purely protective move to ensure the deadline is met.

We believe it would be beneficial to introduce the right to appeal along a similar approach to the Scottish¹ whereby obvious errors can be appealed after the usual time limited appeals, these would cover issues surrounding clear and obvious error in either measurement, survey or classification or any clerical or arithmetical error in the List.

We consider that the introduction of fines for the submission of a challenge is inequitable and penal. A challenge will only be submitted where there are grounds for considering that the valuation entered by the VOA is inaccurate. The principle that ratepayers should have the ability to challenge their business rates assessments fairly and freely should remain valid. Some ratepayers may withhold challenging their assessment(s) on cost grounds alone which would introduce unfairness into the system.

We note the proposals to extend the period for the VOA to consider a challenge submission from 18 months to 3 years. The length of time taken to consider challenges is one of the key issues identified by ratepayers in responses to the fundamental review. We do not see any justification for extending the period and remain of the view that the period for a challenge determination should be reduced to 6 months. It is important for the credibility of the appeal system that the period is materially reduced along with the backlog of appeals. Given the more limited number of challenges submitted since Check Challenge Appeal (CCA) was introduced and the requirement for supporting statements and evidence with challenge submissions it is baffling why the VOA require such a substantial length of time to issue determinations. Every effort should be made to reduce the timescale to a more realistic period which will facilitate the move to 3 yearly revaluations. More onus needs to be placed upon the VOA to make decisions in respect of challenges in a timely manner.

We note the apparent intention of the consultation paper to consider further restrictions of the definition of material changes of circumstance. We see no basis for this and consider that the ability

¹ Scottish legislation: <https://www.saa.gov.uk/non-domestic-valuation/error-material-change-of-circumstances/>

to reflect all changes which impact on the valuation of a property are fundamental to a fair business rates system and ensure more accurate and fair rates liabilities.

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).

The key issue is to ensure that all information can be provided online in response to concise questions with the ability to upload supporting documentation where required. Provision of Rental and financial information should be facilitated within an excel format.

An online chat or help function would support ratepayers who are unclear regarding responses to specific questions.

There should be the ability to mark information provided as private and confidential with an obligation upon the VOA to ensure that the information provided remains confidential.

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 introduction of full transparency in respect of existing valuations but would expect this to occur immediately and not wait until the proposed ratepayer measures are implemented. Rental and financial information is already available to the VOA through existing powers. In the interests of informing ratepayers and reducing challenges it is essential that prevailing valuations are fully transparent subject to where information provided to the VOA on a confidential basis that strict confidentiality is maintained.

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

We think it is imperative that the VOA engage with ratepayer groups in the design of the proposed online portal and that the government are a stakeholder in those discussions to ensure that the agreed formats are workable and acceptable to all parties. Trials of the portal should be undertaken across a range of ratepayers with feedback encouraged and improvements made before the system goes live from the commencement of the 2023 List.

As highlighted above we do not see any immediate reason why transparency of valuation cannot be introduced earlier with valuations available over the existing government portal.

This phased introduction should be undertaken whilst simultaneously simplifying and streamlining the ratepayer registration and claiming property process so that all ratepayers and their advisors have access to the portal with visibility of existing valuations and access to online compliance.

5) Do you have any other comments on the proposed approach to the move to a 3-yearly cycle? (1000 words)

Not currently

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)

Yes, we do not see an immediate need for annual revaluations provided that Material Change in Circumstances (MCC's) are maintained and subject to our comments regarding valuation date below. Annual valuations would introduce a degree of uncertainty and potential volatility which may be difficult for ratepayers to manage.

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)

We would support annual revisions being introduced for those properties that include an element of the valuation which reflects the load factor (power production – MWh), such as the renewables. This could be based on a similar methodology to that of the valuation of mineral properties. The load factor being the subject of the annual revision whilst maintain the tone for the £/MWh. This would allow a reflection of the market for the previous year's output and more closely reflect the value of that property and its profitability.

We would not support a move to annual revaluations at this stage but consider that a move to a shorter Antecedent Valuation Date (AVD) of 1 year is a sensible objective which, along with retention of MCC's, would ensure valuations are more accurate and reflective of prevailing circumstances. We consider the proposals for greater ratepayer information, along with improved efficiencies and digitisation of data should facilitate a move to a one-year AVD period. Scotland has already announced this move for the 2023 revaluation with a valuation date of 1 April 2022 and we consider that England and Wales should follow suit.

Should you have any questions regarding our response, please do get in touch.

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