

Response: Business Rates Review – call for evidence

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About the District Councils' Network

The District Councils' Network (DCN) is a cross-party member led network of 187 district councils. We are a Special Interest Group of the Local Government Association (LGA) and provide a single voice for district councils within the Local Government Association.

District councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area.

District councils have a proven track record of building better lives and stronger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, raise families and build a stronger economy. By tackling homelessness and promoting wellbeing, district councils ensure no one gets left behind by addressing the complex needs of today whilst attempting to prevent the social problems of tomorrow.

The DCN is grateful for the opportunity to respond to the Business Rates Review Call for Evidence consultation. Before answering the specific questions however, we would like to make some general observations. We are disappointed that the consultation is restricted in its scope to just consideration of an alternative derivation of rateable value and one additional form of local taxation, and that it is only concerned with a very narrow area of local government finance. The continuing delay in the Fair Funding Review means that consultations on various aspects of local government finance continue to be issued in isolation rather than being part of a cohesive whole.

We appreciate that further consultation is planned. We will continue to make the following points:

- a) Business rates form an important part of revenue funding for local government. Any changes in legislation or policy, including replacement of business rates with other taxes, should not diminish funding for local government. This includes continuing to ensure that local government has access to growth in business taxes as it does under the current arrangements for business rates; and that there should be arrangements for sharing the growth in shire county areas ("the tier split") based on the approach that the DCN proposed to MHCLG in 2019;
- b) The business taxes that fund local government should be set by councils. This includes any exemptions, discounts or supplements. Councils set council tax and decide the level of council tax reduction support for working age households. There is no reason why they should not decide such issues for business taxes that fund local government.

Response from the District Councils' Network

Reliefs: Questions

1 How well do current reliefs and exemptions deliver their intended outcomes and satisfy the principles of good tax design? What changes would you suggest to the system?

As the consultation notes, a substantial number of businesses do not pay any business rates because of their entitlement to Small Business Rates Relief (SBRR). The financing of this is primarily through the charging of a higher multiplier on larger businesses and so in terms of an overall economic goal of supporting small businesses and the high street this is a good design in respect of this relief specifically.

In terms of entitlement to SBRR because of the potential for abuse it would be helpful to have a prescribed application process and stronger information sharing powers particularly with the VOA.

Additionally, entitlement to SBRR is based on the rateable value (RV) and the number of assessments occupied by the individual. However by using different trading names the same proprietor can make multiple legitimate applications for SBRR. There is also a school of thought that entitlement to SBRR relief could be tiered based on the profitability/location of the business; for example those businesses that are supplying a service at a local level/ have a limited footfall and lower profit margins should have the highest level of award.

Reliefs generally are fit for purpose, although they should be set by councils. As we have seen with the number of centrally funded reliefs available because of the covid 19 pandemic the current reliefs can be highly reactive. However, we would propose that changes are made in respect of charitable rate relief and the disparity caused by them only receiving 80% compared to small businesses who receive 100%. We do not feel this is in the spirit that the original charitable relief, when introduced, was intended.

There are some areas where there are significant concerns that the current legislation allows for rates avoidance. For example if we follow the four established factors that make occupation rateable the storing of boxes within a large warehouse would constitute occupation and, after a minimum period of 43 days if the boxes are removed this will allow the business to apply for a further period of rate relief of six months exemption. Therefore, if we remove the 'six-week rule' this will at a stroke remove the ability of businesses to avoid their liability. By the same token it would be helpful if the definition of occupation was updated to include a reference to the amount of space that is being used within a building to consider it occupied.

Districts tell us they have come across a number of cases where the landlord is advertising the business property as not being liable to NNDR by virtue of the RV. However this is not the case as the test is the 'occupier' who may have a number of other businesses. So, one way of ensuring that landlords notify the LA of any changes is to mandate that all SBRR claims be renewed annually.

Reliefs vary from the very general, such as charitable relief, down to the very specific, such as local newspaper relief. The strength of the current relief system is that it is able to target

very specific situations and it could lose its effectiveness if it were rationalised to only a few broad categories. A benefit of the current system is that it new reliefs can be introduced at short notice to adapt to exceptional circumstances, such as the Coronavirus pandemic. However, the generosity of the charitable relief also allows some national financially secure charities to occupy large RV assessments such as warehouses and benefit from massive rates reductions, which other industries would not be eligible for, thus restricting growth and investment in industries such as manufacturing.

The current system of reliefs also falls short on some of the principles of a good tax system in the following ways:

- It is not easy to understand which may lead to uncertainty among ratepayers.
- It lacks horizontal equity in that businesses in similar properties may have different rate liabilities because of the nature of their business or their organisational structure.

The concerns that we have could be addressed by letting councils decide what reliefs should be available, as they could tailor them better to meet local needs and circumstances, rather than have a “one size fits all” approach designed in Whitehall.

2 How can reliefs be targeted more effectively? How can reliefs and their administration be simplified?

Our view is that districts are very effective at communicating the availability of reliefs and these communications are targeted appropriately. However, simplifying their administration too far may bring with it the unintended consequence of introducing fraud and error so our view is that there should be a robust application process at the front end, together with timely reviews.

Introducing local control of reliefs would allow them to be better targeted to the businesses that are most deserving, taking account of local needs.

3 What evidence is there on the capitalisation of business rates and business rates reliefs into rents over time? What does any evidence mean for the design of rates reliefs and business rates more broadly?

We do not have any evidence that rents are inflated to take account of the fact that the occupier has a reduced or nil business rates liability but its highly likely that this does occur in some sectors.

4 What role should local authorities have in determining business rates reliefs and exemptions? Should reliefs and exemptions be set by central government or set locally?

Local Authorities should be given full control to determine and set reliefs and exemptions, including the design of transitional relief schemes at revaluation.

The previous Business Rates Review consultation in 2016 drew considerable support from local authorities for greater devolution of reliefs and rate setting. These powers would be effective tools for them to boost growth as they are better placed to respond to the specific needs of businesses within their locality. This is even more imperative now given the inevitable

downturn in the economy that will follow the pandemic with the resulting need for local authorities to respond to very local issues. Given that many existing reliefs are funded by central Government, a shift to local control of reliefs should be accompanied by transfer of that funding to local government on a permanent basis.

5 Are you aware of ratepayers misusing tax reliefs or other means to avoid paying their full business rates liability? What could be done to tackle this?

We are aware of cases where;

- occupation is being claimed that is not within the spirit of the legislation
- businesses taking advantage of the 6 week rule (short-term occupation)
- owners encouraging charities to take on leases of empty properties
- Self-catering accommodation *

In order to tackle these issues, either the regulations will need to be changed to close the loopholes or councils should be empowered to decide the rules for reliefs as part of transfer of decision-making away from Whitehall.

The Local Government Association Business Rates Avoidance Survey of Local Authorities Research Report (2019) reported that repeated short-term periods of occupation were the method of avoidance most commonly identified among respondents, with 50% of the total estimated losses of £250 million attributable to this. It is the most common form of empty charge avoidance, enabling landlords to benefit from a further exempt period upon vacation. Vacant properties being leased to a charity with proposals for the next use to be wholly or mainly for charitable purposes was the second most commonly identified method, accounting for a further 20% of total losses.

Because of the generous nature of the SBRR scheme it encourages some ratepayers to declare that they are in occupation when they are not, or not declaring a second property outside of the district/borough.

We consider that the following actions would help to tackle this:

- Reform of empty property regulations to restrict the practice of marketed avoidance schemes and to make it easier for local authorities to take legal action against the perpetrators.
- A statutory duty to notify billing authorities of changes in occupation for liability
- More joined-up working with Her Majesty's Revenue and Customs, Charity Commission and Companies House to help deal with avoidance.
- Information sharing among local authorities and other organisations.

*** Self-catering accommodation**

We strongly urge the Government to ensure owners of second homes and properties that are available for self-catering holiday lets, contribute appropriately to the local economy and are subject to Council Tax rather than National Non-Domestic Rates.

Specifically, we urge the Government to close the current business rates tax loophole which allows second homeowners to avoid paying any council tax or business rates on their properties.

Currently, owners of second homes can apply to the Valuation Office to register their domestic properties for business rates if their property is available to let for a minimum of 140 days per year. If registered for business rates, a large proportion of these properties qualify for small business rates relief and are eligible for 100% relief and this in turn means they have no business rates to pay.

The Government consulted on tightening the rules in November 2018 but no action has been taken on this. We also do not feel that the Government consultation went far enough. Our view is that these domestic properties should be treated as council tax payers and pay council tax, irrespective of whether they are let out or not, unless it can be shown that the property is genuinely operating as a business.

It cannot be right that second home owners can let out their properties for a significant amount of money per week and pay absolutely no money into the local economy. They are using local services and infrastructure like roads and contributing nothing towards it.

At a time when local authorities are struggling to maintain public services, the current system is fundamentally and inherently unfair. Small business rate relief was implemented to support our small businesses, village halls and local shops, not to allow some second home owners to not pay any council tax or business rates at all.

The District Councils' Network response to the 2018 consultation stated that there is scope to explore an alternative system where self-catering accommodation is taxed solely through the council tax system, with legislation changed as necessary to deliver this. Owners of self-catering accommodation should be subject to local taxation as the use of properties imposes costs on local communities and Councils should be guaranteed an income from them, which is achievable at present only through the council tax regime.

This would remove the perverse incentive for owners of second homes to seek to avoid taxation by declaring that their property is available to let, and making relatively little effort to let it out.

We call on the Government to introduce legislation to this effect so that second homeowners are making a fair contribution to the cost of running local services through the council tax system.

Section 44a Reliefs

During the Covid pandemic, we have been made aware of concerns held by a number of districts around S44A reliefs. A number of district authorities tell us they are receiving applications for this discretionary relief based on properties being unoccupied during covid, and only partially occupied going forwards. Previous guidance put out on this from government dates back to 2009. While section 8.2.2 of the guidance indicates that the relief is not intended where equipment, plans and machinery remain, the remainder of this section is phrased in a way that is open to interpretation. Given the current circumstances, the

guidance should be reviewed and reissued, or this relief considered as part of this consultation.

Part 2 - The business rates multiplier: Questions

6 What are your views on how the business rates multiplier is set annually and at revaluations?

We believe Local Authorities should be given full control over business rates and the current centralised system replaced with a locally determined system. This would include the setting of rates multipliers locally. This could be subject to a mechanism to ensure that the business rates poundage did not grow faster than council tax, so that businesses were not treated differently from residents.

7 How could the multiplier be set in future to ensure the sustainability of public finances and support growth and productivity? What would the impact of any proposed changes be on the level of the multiplier and revenue from business rates over time?

Whilst the current uprating approach brings about certainty for LAs, we recognise that it doesn't reflect the economic conditions relating to different rateable premises and businesses who occupy them.

We would support a system that allows LAs more flexibility to adjust the multiplier locally. Setting the multiplier should not be tied to the value of a property, as this does not always bear any resemblance to the economics of trade going on in such properties. One option would be to allow councils to set different multipliers for different types of businesses.

The key to sustaining growth lies in ensuring that the number of hereditaments is maintained or increased and that the condition of hereditaments is improved so that there is an increase in rental value and therefore of the rateable value. It is the tax base that is the crucial component, not the tax rate. The key issue with the multiplier over time is that it provides an adequate and consistent revenue stream to local authorities while at the same time providing ratepayers with certainty as to their liability.

8 How should the multiplier and any supplements relate to business rates reliefs? Should these be discrete, or should supplements fund specific reliefs?

In its present guise the multiplier is linked to a business' RV so if left 'as is' will continue to support small businesses. If a LA chose to raise a business rate supplement we believe it would be more acceptable to businesses if it was linked to a specific initiative.

It seems reasonable that the present supplement to the multiplier is used to fund the Small Business Rate Relief scheme. The standard multiplier is only 2.6% on top of the small business multiplier and therefore represents only a comparatively small amount for most standard rate payers. Similarly it is reasonable that phased increases arising from transitional relief following revaluation are financed from phased reductions. However, we would not be in favour of an extension of the principle to other mandatory reliefs introduced by Government. Supplements should be used to fund specific expenditure in the locality in which it is raised so that ratepayers can see a link between the levy and the expenditure. The same principle should apply to the local design of transitional relief schemes, with

councils deciding what relief should be offered for businesses facing increases and whether/how it should be funded by delaying gains by other ratepayers.

9 What are your views on introducing additional multipliers that vary by geography, property value, or property type?

As above response to question 7.