

POLICY DEVELOPMENT: NOT A STATEMENT OF GOVERNMENT POLICY

100% Business Rates Retention

Systems Design Working Group: 7 February 2018

Technical paper 1: The Central and Local Rating Lists

Introduction

- 1.1 On 5 July 2016, the Department for Communities and Local Government (DCLG) published a consultation paper, Self Sufficient Local Government: 100% business Rates Retention. Following this, on the 15 February 2017, DCLG, published a further consultation paper, 100% Business Rates Retention: Further Consultation on the Design of the Reformed System.
- 1.2 These set out proposals for a rates retention scheme to replace the current local government finance system, under which local authorities pay a central share of 50% of their business rates income to be redistributed as grants.
- 1.3 The consultation papers outlined the principle features of the proposed greater rates retention scheme. A summary of responses received to the Further Consultation was published alongside the 2018/19 Provisional Settlement on 19 December 2017.
- 1.4 Following the fall of the Local Government Finance Bill, MHCLG (formerly DCLG) will be developing a package of reforms, in close collaboration with the sector, that further the manifesto commitment to continue to allow local government greater control over the money it raises. Reforms to the design of the system will seek to make improvements to the functionality and stability of Local Government Finance.
- 1.5 A commitment was made to the Steering Group and Technical Working Group that a series of technical papers would be shared with the Technical Working Group for discussion and published on the Local Government Association (LGA) website. A suggested forward look of these was shared with the Working and Steering Groups in November 2017.
- 1.6 Taken together these technical papers will raise a number of questions about the proposed rates retention scheme, on which the Government is seeking views.

1.7 This is one of seven core technical papers. The full list is:

Paper 1:	The Central and Local Rating Lists
Paper 2:	The Safety Net, Levy & Tier Splits - Risk and Gearing
Paper 3:	Appeals and Loss Payments
Paper 4:	Resets, Measuring Growth and Revaluation
Paper 5:	Transitional Arrangements
Paper 6:	Pooling
Paper 7:	Proposed Overall Short Term Package and Future Reform Using Primary Legislation

1.8 We expect that these will be supplemented by other papers in response to Technical Working Group discussions. Additional papers will be announced as need for them arises.

Overview of this paper

2.1 The business rates income which each billing authority collects is prescribed by reference to local rating lists, compiled and maintained by the Valuation Office Agency (VOA). The local list a hereditament appears in is determined by its location. These lists are subject to variation, between revaluations, as a result of VOA alterations to maintain correctness, for example to reflect physical changes (either to the property or the locality) and appeals.

2.2 The VOA is responsible for compiling and maintaining the central rating list, which contains the rating assessments of the network property of major transport, utility and telecommunications undertakings and cross-country pipelines. The government prescribes the hereditaments to appear in the central list in regulations. It is used to house hereditaments which, due to their nature, are not suitable for being entered in the local rating list. Whilst most business rates are collected locally, rates for properties on the central rating list are paid to the Secretary of State and in turn used for the benefit of local government. Our updated estimate is that the value of central list income in 2017/18 is expected to be £1.6 billion.

2.3 The Local Government Finance Bill sought to introduce the following reforms to the central rating list:

- i. The current system for determining the contents of the list using secondary legislation would have been replaced with a power of direction for the Secretary of State. This would have made the process of movement between lists more flexible and would have allowed the list to be kept up to date with ease.
- ii. Charitable reliefs and empty property reliefs, already present on local lists since 1990, would have been extended to the central list. This would have created consistency between the central and local lists and allowed for the movement of hereditaments onto the central list which may become eligible for these reliefs.

- 2.4 Following the fall of the Local Government Finance Bill, it was announced by the Secretary of State on 19 December that the Government will proceed with the reform programme and aim for local authorities to retain 75% of business rates from 2020/21.
- 2.5 Alongside this, the Department has agreed with our Steering and Working Groups that we will continue to work closely with them to reform elements of the business rates retention system, both through a short term proposal to be implemented in 2020/21 and a long term proposal for reform requiring primary legislation after 2020/21.
- 2.6 Our objective in the design of the central and local lists is to create a rational and transparent system which is uniform throughout the country and which offers local authorities opportunity to see the benefits of growth in business rates from hereditaments within their area, whilst fairly allocating hereditaments which cannot reasonably be attributed to any one local authority to the central list.
- 2.7 We will ensure fairness and consistency by ensuring that hereditaments are allocated to the most appropriate list under clear criteria. There is also the possibility of exploring options to address volatility within the system and whether authorities could benefit from the designation of nationally significant infrastructure to the central list.

Previous Discussion

- 3.1 There have been various previous discussions of potential reform of the central and local lists.
- 3.2 The below options were previously put to the Systems Design Working Group, in a paper available on the LGA website:
- 3.3 It was suggested that the current central list could be enlarged to become a 'national list'. This national list would continue to have on it all hereditaments which cannot easily be attributed to any one local authority, as is the rationale behind the central list. However, it would additionally have on it many riskier hereditaments, such as power stations. It was postulated that the increased income from the national list could then be used to fund the safety net and/ or handle risk arising from appeals.
- 3.4 An alternative proposed option, would have allowed local authorities to continue to see the benefits of growth in their areas through the creation of a regional area list. This would have involve creating a three tier structure of rating lists comprising of local, central and area lists. The area list would contain hereditaments which met certain agreed criteria. The hereditaments on this list could be riskier single properties such as power stations, or regional properties such as TfL's infrastructure in London. The rewards, but also the risks, from growth or decline in business rates income from these hereditaments would be shared across all local authorities within the specified area. This idea could also be used to the advantage of pooled authorities. It should be noted that the creation of area lists would require

primary legislation, although it may be possible to operate virtual area lists by moving these properties to the central list and allocating the revenue directly to authorities in the area.

- 3.5 Following Technical Working Group discussions of these proposals, the Government consulted ratepayers and local government in the Further Consultation on the Design of the Reformed System. This included a commitment to provide details of the central list criteria and confirmation that the core purpose of the central list would remain to provide a home for hereditaments unsuitable for assessment on local lists.
- 3.6 There was 88% support for the government's proposals. Respondents supported the central list comprising primarily of non local hereditaments but there were mixed views as to whether large sites such as national infrastructure or power stations should be transferred on to the central list. There were suggestions that individual local authorities should be able to nominate those hereditaments in their areas, which they believe should be placed on local/ central lists, whilst other respondents called for hereditaments of the same type e.g. power stations and telecommunications companies to be treated in a consistent manner.
- 3.7 There were suggestions that national rail stations should be split and placed onto local lists. There was support for the review of the central list and for regular maintenance/ updates to the list to be made. The majority of respondents stressed that any move between lists should take place at resets or the government should commit to adjusting business rates baselines. The majority of respondents also called for there to be more transparency over how income from the central list is spent and distributed. Some common suggestions for how the central list income could be spent included using the income to fund provisions such as the safety net, appeals losses and loss payments.
- 3.8 It was felt by the Working Group that area lists were not desirable and so this measure was not included in the Local Government Finance Bill. However, responses to the Further Consultation showed some support for area lists.
- 3.9 At the meeting of the Working Group on 15 November 2017, concerns were raised that hereditaments were anomalously designated to local lists, contrary to the criteria by which they should rightly be defined as network hereditaments and designated to the central list.

Consistency and Fairness

- 4.1 In order to provide certainty to both ratepayers and local government we will devise transparent criteria for eligibility for inclusion on the central list.
- 4.2 We have previously consulted on the rationale for the central list and there was agreement that the central list should primarily be used to house hereditaments which, due to their nature, are not suitable for being assessed on the local rating list.

4.3 The decision as to whether hereditaments rightly sit on the central or local lists is currently prescribed on the basis of the characteristics of the property such as its size, geographical spread, and whether it is concentrated in one local authority area. The Central Rating List Regulations for England designate large regional and national utility networks and some other cross boundary networks as single hereditaments to be administered on the central list. These include: railway infrastructure; communications; national and regional gas transportation and gas meters; electrical distribution, meters and the national grid; water supply; and pipelines.

TP1 Q1: Is this still the basis on which the Department should develop clear and transparent criteria for publication?

4.4 Over recent years the government has not proactively maintained the designation of properties on the local and central rating list. As a result there may be some properties on the local list which, through application of the current principles, might more properly belong in the central list. An example of this is some telecom networks but also some railways. Equally there may be some properties on the central rating list which can be readily assessed to individual local rating lists (such as smaller local energy networks). In the 'Further consultation on the design of the reformed system', we announced our intention to review the contents of the central list and ensure its consistency under clear criteria.

4.5 We will need to decide the optimal way for local authorities and ratepayers to identify hereditaments for re-designation to a different list on application of these criteria. We propose that MHCLG draws on existing knowledge, in conversation with the VOA and Local Government, to identify hereditaments that are anomalously on local lists or the central list. Once this list has been drafted we will publish it in consultation form, in order to carry out an evidence check. In this consultation, ratepayers and authorities will be invited to comment on what we have identified and additionally to identify any other hereditaments which should move list on application of the criteria.

TP1 Q2: Do you agree with this approach to the process under which we will identify those properties which on application of the criteria might move between lists?

4.6 The Local Government Finance Bill would have extended Charitable Relief and Empty Property Relief to the central list, in line with local lists. Without this measure a ratepayer with a hereditament on the central list would not be able to receive either of these reliefs if they were to become applicable. We will therefore need to assess the impact of the movement of any hereditament onto the central list to ensure that no ratepayer is disadvantaged.

4.7 Similarly, the process by which ratepayers request that a hereditament move from one list to another must include an opportunity for recipient authorities to have a right of reply, in order to ensure that any local impact that this might have is taken into account when reviewing the request.

4.8 We propose that the initial re-designation of hereditaments to new lists takes place in line with the 2020/21 reset, to allow baselines to be appropriately adjusted. This

would be done by way of secondary legislation amending the Central Rating List (England) Regulations 2005.

- 4.9 We will need to consider this process, as there is some complexity as to how we mechanically take hereditaments moving lists out of the relevant authority's baseline. We will need to develop a methodology for measuring the accurate non-domestic rating income in respect of a hereditament and address at what point/s in time we will take this measurement. We have previously developed a methodology for recalculating baselines where rateable value cannot be factually measured around the revaluation process. This methodology was broadly supported and we expect that it will serve as a template for adjusting baselines for movement between lists. A more developed proposition will form part of the technical paper on transitional arrangements.

TP1 Q3: How should we translate the outcome of the movement of hereditaments between lists into authorities' baselines?

Options for Reducing Volatility

- 5.1 It is possible to use longer term reform of the central and local lists to address income-volatility for local authorities, continuing the work done when a 'national list' and 'area lists' were in consideration.
- 5.2 When a local list is dominated by one hereditament, or a small number of hereditaments (for example, when two power stations appear on a local list), this can represent a substantial risk to the authority's business rates income. There are 10 local authorities for whom one hereditament represents 20% or more of their local rateable value and 17 local authorities for whom their 10 hereditaments with the highest rateable value represent 30% or more of their local rateable value. The subsequent reliance on these small number of hereditaments for business rates income means that the recipient authorities are more vulnerable to appeals losses and that it is harder for them to pool with neighbouring authorities, who may be reluctant to share the large associated risk.
- 5.3 Where an authority felt that it could not manage the risk a hereditament posed alone, area lists could support the management of income-volatility, through sharing the risk across the pool. It would also be possible for authorities to request hereditaments move to an area list from the central list, if the pool put forward a convincing proposal for this. This will be explored further in the technical paper on pooling, which will include detailed consideration of how the relationship between risk and reward from shared income should work and on what basis a hereditament could be moved to an area list. As with potential nominations to the central list, any movement between lists would need to be requested in advance of a revaluation.

TP1 Q4: What are your views on the use of area lists to share risk (and reward) and support pooling?

- 5.4 In circumstances where a hereditament was felt to pose an unacceptable risk to an authority's income, and where neighbouring authorities felt unable to share that risk,

there is a question as to whether the hereditaments would be better placed on the central list.

- 5.5 There were mixed responses to the Further Consultation as to the merits of widening the central list criteria and we are keeping an open mind as we consider the impact of this reform. Some respondents suggested giving authorities the power to nominate hereditaments designated to their local list to the central list. This would allow authorities, who are best placed to assess their local financial landscape, to balance risk and reward and to place themselves in a better position to pool with their neighbours, if that was a local priority.
- 5.6 To be considered for assessment on the central list a hereditament would need to fit a definition based on national infrastructure as defined by the planning act 2008 and would need to be nominated to move to the central list before a revaluation. There is substantial overlap between a network hereditament and national infrastructure but most notably this widening of the criteria would bring airports, and power stations onto the central list, if an authority were to make a successful request for this. There are 10 local authorities for whom a power station represents 10% or more of their local rateable value.
- 5.7 Moving national infrastructure onto the central list would have significance for a number of specific interests; these would need to be fully assessed and addressed to ensure that measures continue to function as they were originally intended and authorities are not unfairly disadvantaged. This includes agreements already in place for Community Benefit, Renewable Energy, and Heathrow.

TP1 Q5: What are your views on allowing authorities to nominate hereditaments that fit a criteria based on national infrastructure to be designated to the central list in order to manage income volatility?

- 5.8 We are aware that there are also a number of hereditaments, such as large supermarkets and shopping centres, which might dominate a list but do not fit the definition of national infrastructure. To move these hereditaments to the central list would be a major departure from the current system and would lessen the control that authorities have over their local economy and so is currently out of scope.
- 5.9 We recognise that the dominance of one hereditament, or a small number of hereditaments, on a local list is a problem for some authorities. We equally recognise that this is not a universal experience. Primary legislation would be needed for to carry out fundamental change and so this is not in consideration as part of the initial 2020/21 reform package.
- 5.10 As we consider the rate retention system as a whole we will assess the suitability of other system design elements, which could also fulfil a similar function in addressing income volatility, such as the safety net, the centralisation of appeals losses and adjusting tier splits and gearing. It may be that one of these, or a combination of these, represents stronger levers to secure stability and sustainability.

Reform beyond 2020/21

- 6.1 The improvements to the central and local lists put forward in the Local Government Finance Bill stood on their own merit outside of greater business rates retention. Therefore, they should be a front line candidate for inclusion in post 2020/21 reform plans and would not necessarily need to continue to be paired with rates retention.
- 6.2 The power of direction would allow the Secretary of State to control the contents of the lists with greater flexibility and responsiveness, ensuring that the central list is up to date and fully supports the future business rates retention system. Once greater rates retention is implemented in 2020/21, it may become necessary to make amendments to the contents of the central list from year to year to keep pace with changes to properties and occupiers. This will be essential in ensuring properties which belong on the central list remain on the central list. Directions are a far more practical way of doing this and ensuring the central list remains fit for purpose. It would also allow for the possibility of movement of properties between the local and central list on the request of authorities.
- 6.3 Additionally, the extension of charitable and unoccupied reliefs to the central list would mean that hereditaments can be included in the future which may become eligible for these reliefs, ensuring a fairer system for ratepayers where properties which would be eligible for relief on local lists are also be eligible for relief on the central list.
- 6.4 Beyond reintroducing these measures, we will consider possible further reform in consultation with the sector. This will focus on support for pooling and strategic decision making across functional economic areas through area lists and allowing authorities greater control of their local lists by giving them the power to nominate hereditaments for consideration for inclusion on the central list.
- 6.5 We will also use learning from the 2020/21 reset to refine and develop our process for identifying and moving hereditaments between lists.

TP1 Q6: What are your views on the proposals for post 2020/21 reform?

Next Steps

MHCLG will:	
Develop criteria for allocation of a hereditament to the central list	Spring 2018
Share criteria with Working and Steering Groups	Summer 2018
Develop a methodology for mechanically taking the rateable value of hereditaments moved between lists out of baselines	Spring 2018
Share this methodology with Working and Steering Groups	Summer 2018
Use the criteria to identify hereditaments to be moved between lists in conversation with the VOA and Local Government	Autumn 2018
Publish a consultation/ evidence check on hereditaments identified	Spring 2019
Notify authorities and ratepayers of anomalously placed hereditaments confirmed for re-designation	Autumn 2019
Re-designate anomalously placed hereditaments identified to their appropriate list	April 2020

Summary of Questions

- TP1 Q1:** Is this still the basis on which the Department should develop clear and transparent criteria for publication?
- TP1 Q2:** Do you agree with this approach to the process under which we will identify those properties which on application of the criteria might move between lists?
- TP1 Q3:** How should we translate the outcome of the movement of hereditaments between lists into authorities' baselines?
- TP1 Q4:** What are your views on the use of area lists to share risk (and reward) and support pooling?
- TP1 Q5:** What are your views on allowing authorities to nominate hereditaments that fit a criteria based on national infrastructure to be designated to the central list in order to manage income volatility?
- TP1 Q6:** What are your views on the proposals for post 2020/21 reform?

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