

POLICY DEVELOPMENT: NOT A STATEMENT OF GOVERNMENT POLICY

100% Business Rates Retention

Steering Group: 23 July 2018

Criteria in consideration for the listing of a hereditament in the central non-domestic rating list

Starting principles for non-domestic rating lists reform

1. The starting principle for the updating of the central non-domestic rating list is that, as much as is practical, authorities and rate payers will see no loss and no gain as a result of movement between lists.
2. Under the Local Government Finance Act 1988 the Secretary of State has the power to designate hereditaments to the central non-domestic rating list. A change to legislation is not proposed in 2020/21; instead reform will be carried out using this existing wide-ranging power. Ministerial decisions are likely to be informed by the following criteria, which currently form the primary basis of consideration:
 - a. The nature and use of the property;
 - b. The size and geographical spread of the property; and
 - c. The suitability or otherwise for assessment of the property on local non-domestic rating lists.
3. These criteria will remain the primary basis on which suitability for listing in the central list is assessed, in the majority of cases. Typically, properties meeting these criteria are likely to be used for **infrastructure** or **utilities**; be considered to be **networks**; and/or be **administratively difficult to assess** as single entities. The criteria will be used in combination to inform the overall suitability of hereditaments for listing in the central list.

Criterion a - the nature and use of the hereditament

4. The central list is used for networks. Although there is no specific definition of a network, they are typically: cables for electricity and communication; pipelines for water, gas and other materials; railways and the canal network; and certain items associated with those networks (electricity and gas meters).
5. Generally the occupiers of network hereditaments are statutory undertakers but that is not always the case. Statutory undertakers are companies or other bodies with legal powers to undertake works such as install electricity cables or dig up

the road in order for them to fulfil their statutory function (usually the provision of a utility such as water and gas). Occupiers may be considered similar to statutory undertakers in other circumstances, such as where they are involved with the provision of a utility and they have to comply with certain regulatory conditions set by a regulator.

Criterion b - the size and geographical spread of the property

6. Networks can vary in size and not all merit assessment on the central list. In some cases it will be clear that they belong on local lists – perhaps because they are contained entirely within a single local list boundary or because they have a small rateable value. For larger networks the Secretary of State must decide at what point they more appropriately belong in the central list. In doing this, it will not normally be appropriate to develop standard rules (such as length or number of local authorities crossed) as that may lead to arbitrary outcomes, but rather to look at the overall size and spread of the property and how it fits within the local lists system. However, some assessments with small rateable values may still span several rating list areas. Therefore, the SoS may consider only moving assessments whose rateable value is more than a particular level, so as to ensure the use and number of ratepayers on central rating list remains proportionate.
7. Although the number of lists over which the property crosses would form part of this consideration, in many cases it will not be possible to determine precisely how many rating lists are crossed by a network due to the administrative practices of the occupier.

Criterion c - the suitability or otherwise for assessment of the property on local non-domestic rating lists

8. As business rates is a local tax, if a hereditament can reasonably be assessed on the local list then it should stay on the local list.
9. The rules for properties which cross rating list boundaries provide for them to appear in the list which the valuation officer believes contains the largest part of the rateable value. In most cases this will provide a reasonable outcome. A property is very unlikely to span more than one boundary and, therefore, in that normal case, at least half of the rateable value of the property will be within the area of the local authority which contains the full rating assessment.
10. However, where hereditaments cover large areas and so many local authorities, the largest part of the rateable value falling within an area may still only be a small proportion of the total rateable value of the property. As a result, the rateable value which is attributable to a local list area in which the property is assessed may be small in comparison to the total rateable value of the rating assessment. This means that it may be difficult to identify a single local rating list on which assessment of a network would be a reasonable outcome.

11. Furthermore, networks most appropriately listed in the central list may be contiguous units of property, for example in a telecommunication network where data is transmitted throughout the network as part of a single operation. An attempt to accurately capture the rateable value of the networks for each local rating list would therefore create artificial assessments unrelated to the actual business.

Q1: Does the SDWG endorse criteria a-c as the basis on which hereditaments should be identified for listing in the central non-domestic rating list?

The SDWG made the following comments and recommendations:

Q1: The SDWG endorsed criteria a, b and c.

The process

12. If the Government carries out a review of the non-domestic rating lists, at the introduction of greater business rates retention, hereditaments deemed to meet the above criteria will be identified, engaged on and considered by the Secretary of State for designation to the central list. Conversely, hereditaments currently listed in the central list, which do not meet these criteria, will be considered for listing in local lists, following identification and engagement.

13. Without prejudice to the consideration of the facts, if such a review were to be carried out, we would expect some large telecommunications networks to be listed in the central list, as a result of this process, alongside transport infrastructure, such as the HS1 rail link. Additionally, we would expect some small energy networks that fall with the boundaries of single authorities or small numbers of authorities to be considered for inclusion in appropriate local lists. We expect some hereditaments, such as transport networks, to be more marginal in their suitability to the central or a local list and we will accordingly work to establish the facts in these cases. We would work with the sector to determine the best way to adjust baselines where hereditaments move between lists, within the principle of no loss and no gain.

14. Because business rates baselines will need to be reset to reflect the movement of hereditaments between lists, we would only carry out a review of the non-domestic rating lists' content at a time when baselines are adjusted, such as a reset of the business rates retention system. This would not necessarily occur at every event where baselines were reset, as it would be dependent on how regularly these take place in the new system.

Possible additional considerations

15. If this process is carried out, it is possible that the Department will use the following additional criterion to consider the suitability of a hereditament for listing in the central list:

- d. The likelihood that a hereditament's presence on a local list will cause significant short term disruption.

16. Criterion d is subject to further scoping by the Department. There is a question as to whether, where a particular hereditament becomes inherently volatile, the optimal operational solution is for that hereditament to be listed in the central list. A specific group of authorities are affected by this issue and it is therefore right that these authorities are given the opportunity to engage with and feed into this work (as has been the case with work on the tier-split and gearing, which particularly affects counties and districts).

17. We have previously considered using the term 'national infrastructure' as defined in the Planning Act 2008 to inform consideration for inclusion in the central list. However, although useful in informing wider discussion, this is unlikely to form a consideration as it would capture many small properties more suitable for inclusion on local lists.

Q2: What is the SDWG's view of criterion d as a means of addressing short term disruption?

The SDWG made the following comments and recommendations:

Q2: The SDWG noted the work the Department is carrying out scoping criterion d.