Checking and Challenging your Rateable Value Consultation

March 2014

1. The Local Government Association (LGA) is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by making the case for greater devolution, helping councils tackle their challenges and assisting them to deliver better value for money services.
2. This response has been agreed by lead members of the LGA's Finance Panel.

Key points

3. This consultation addresses the fact that business rates appeals has become a key local authority risk issue. This is due to the introduction of business rates retention in April 2013 and the Government's decision that the risk from all unresolved appeals before that date should be shared 50% by local government and 50% by central government, as opposed to allowing appeals from before April 2013 to be set off against the old national business rates pool.
4. The LGA has welcomed the introduction of business rates retention although we think that the local share should be greater than 50% but we have consistently said that risk issues such as appeals should be satisfactorily resolved.
5. The measures proposed should, if accompanied by clear targets on clearing the backlog of appeals, enable the system of appeals to become more transparent and streamlined which is good for the public purse as a whole. At the same time they do not appear to place a new burden on businesses.
6. The best way of reducing the risk from appeals would be to allow appeals from before April 2013 to be set against the old national business rates pool. This is a point we have made in our reply to the local government finance settlement.

Background

7. Business rates retention, which was introduced in April 2013, gives financial incentives to councils to grow their local economies. At the same time, it has resulted in more risk and uncertainty. By far and away the primary problem is the level of financial risk that councils face due to business rate challenges and appeals.
8. Previously appeals were one element in the business rates pool calculation which was done centrally. The calculation did not directly affect local government income. However under business rates

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retention local government has a direct exposure to 50% of the appeal risk.

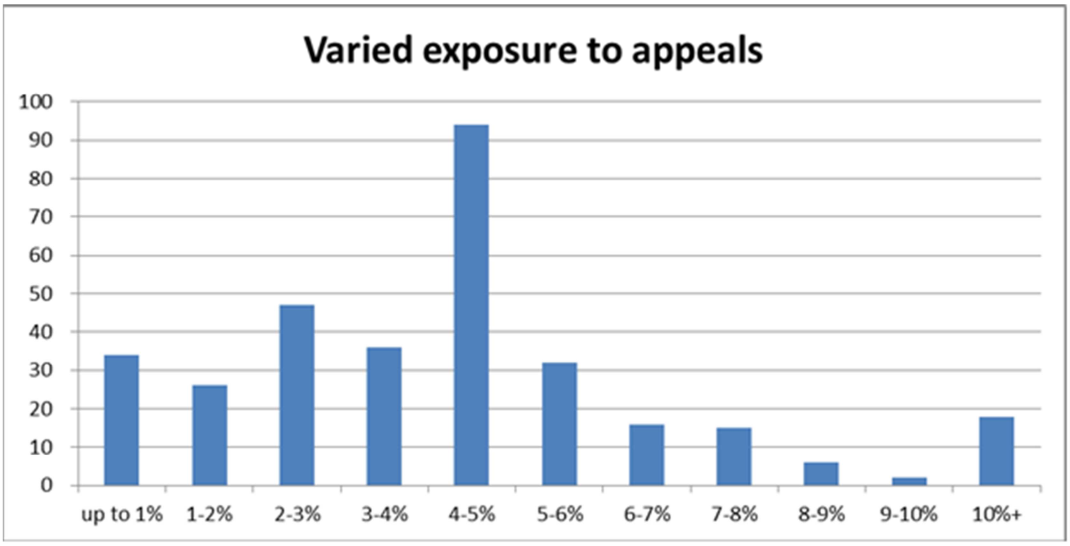
9. This risk has been exacerbated by the Government's decision to close the old business rates pool on 31st March 2013, meaning that 50% of the risk of all unresolved appeals, some of which date back to the 2005 list, now fall on local government.

The size of the risk

10. Currently, about 165,000 appeals are still pending decision. This is 11.7 per cent of the total number of appeals that have been raised in relation to both 2005 and 2010 rating lists.

11. However, there is significant variation in the size of the backlog, with billing authorities facing backlogs of 4.5 to 24.6 per cent of total appeals raised in relation to 2005 and 2010 rating lists.

12. Similar information about the total rateable value being challenged is not available but some idea can be got from the chart below which shows the provision for appeals which councils made in their NNDR1 form for 2013-14. Councils have dealt with this in different ways. It can be seen that it was most common for councils to make provision for appeals which represented 4-5% of their total taxbase. However almost 20 councils had appeals which represented over 10% of their total taxbase by value.



13. Worryingly, there are still almost 13,000 unresolved challenges in relation to the 2005 rating list. Without any further information, they are at least almost four years old.

14. Overall, the scale of the appeals backlog means that councils operate in an environment of financial uncertainty. While historic data shows that about a quarter of appeals go in the favour of businesses, councils across England have to make less favourable assumptions in their budget planning process so as to avoid any unexpected impact on their ability to deliver services.

15. This means that the size of the backlog affects the funding that councils can confidently allocate to areas such as social care.

16. Our research in November 2013 showed that some councils forecasted potential losses on challenges to be as high as 45 per cent of their total business rate income, although typically around 75% of appeals go in favour of the authority and against the appellant.

Our opinion on the proposals

17. The measures proposed should, if accompanied by clear targets on clearing the backlog of appeals, enable the system of appeals to become more transparent and streamlined which is good for the public purse as a whole. At the same time they do not appear to place a new burden on businesses.

18. The best way of reducing the risk from appeals would be to allow appeals from before April 2013 to be set against the old national business rates pool. This is a point we have made in our reply to the local government finance settlement.

19. The LGA believes that a set of principles needs to underpin implementation of the proposed changes:

    19.1. Clear targets on the backlog of appeals should be set for the performance of the Valuation Office Agency and the Valuation Tribunal for England. The LGA supports the target of 5 per cent to which Government has committed itself and believes that this should not only be a one-off target but also a continuous benchmark, except in the first year after a revaluation.

    19.2. If it is clear that the target is being missed, the VOA and the VTE should devote administrative resources to resolving the backlog.

    19.3. Finally, these reforms should not result in significant additional costs to small and medium sized businesses which genuinely feel that their valuation is incorrect. It should be the aim of the policy to reduce speculative challenges without unnecessarily reducing genuine ones and businesses should be consulted extensively on the detail within the proposals. The proposals as set out would appear to strike this balance.

Other points

20. In addition, the LGA believes that the Valuation Office Agency should continue increasing the amount of public information provided. The experimental statistics are a very good step in the right direction; however, more authority-level data about the rateable values under challenge should be made available.

21. Counts of challenges provide a very useful view of the scale of the problem, but knowing the values under challenge – and how they compare with other billing authorities nationally – would go a long way to help councils plan accordingly even while the level of outstanding appeals remains high.

Local Government Association
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Appendix 1

The detailed responses to the DCLG questions in the consultation are:

Question 1: Do you agree that the Valuation Office Agency should provide rental information prior to the challenge process?

We note the Government's reasoning behind including additional information in valuation notices in order to reduce the number of speculative challenges. This would in turn remove some of the financial risk that council budgets have to take into account and make the process easier to understand for business rate payers

Question 2: Do you agree that ratepayers, or their agents, should provide with their challenge sufficient detail of why they consider the rateable value to be incorrect such that the Valuation Office Agency may reasonably consider their challenge, plus any evidence they are relying on to support the challenge? How might this requirement be suitably framed?

We agree with the proposal to require supporting information to underpin the valuation challenges. This is likely to enhance the quality of the challenges and any eventual appeals and potentially reduce the amount of challenges that the Valuation Office Agency has to review.

Any such moves that lead to a reduction in the backlog and volume of business rate appeals will be welcomed by local authorities which are dependent on stability of business rate income to provide services to local residents and should lead to a saving to the public purse..

Question 3: Do you agree with the Government's revised approach to the proposal stage?

We agree with the proposal for reasons mentioned above.

Question 4: Do you agree that the Valuation Office Agency should have 3 months to consider if the proposal is invalid other than in exceptional cases? How might these exceptional cases be framed?

Yes, this seems sensible. We agree with the definition of exceptional cases proposed in the consultation document.

Question 5: Do you agree that ratepayers should, if they wish, be able to progress to the appeal stage in the Valuation Tribunal for England if they have not received a decision notice after 12 months of making a proposal?

We believe that the timescales of decisions on challenges and appeals need to be as short as possible to reduce the financial uncertainty that local authorities face due potential loss of business rate income. This also provides businesses with clarity over their situation and tax liabilities.

We would support a continuous review of the level of the appeals backlog with potential reductions to this time limit if it is found ineffective.

Question 6: Do you agree with the Government's revised approach to the appeal stage to the Valuation Tribunal for England?

We support any reform to the Valuation Tribunal procedures which would add clarity and timeliness on appeal decisions to provide additional financial certainty to local authorities and communities they represent.

Question 7: Do you agree that ratepayers should be allowed 2 months from receiving a decision notice to decide whether to lodge an appeal with the Valuation Tribunal for England?

We believe that the timescales of decisions on challenges and appeals need to be as short as possible to reduce the financial uncertainty that local authorities face due potential loss of business rate income.
We would support a continuous review of the level of the appeals backlog.