Ministry of Housing,
Communities &
Local Government

Title:	**Steering Group**
Paper:	A Summary of Responses to the Business Rates Consultation
Date:	09 April 2019
Venue:	Local Government Association, 18 Smith Square, London

POLICY DEVELOPMENT: NOT A STATEMENT OF GOVERNMENT POLICY

Introduction and background

1. On 13 December 2018 the Ministry of Housing, Communities and Local Government (MHCLG) published a consultation paper entitled "Business Rates Retention Reform: Sharing risk and reward, managing volatility and setting up the reformed system."[1] The consultation sought views on the reform of elements of business rates retention system in England from 2020/21 onwards. In particular, the consultation makes proposals to update the balance of risk and reward and to mitigate volatility in income and simplify the system.

2. There were 282 responses in total to the consultation. The Government's aim is to publish a formal response to the consultation later this year. This paper presents an overview of the responses received.

[1] https://www.gov.uk/government/consultations/business-rates-retention-reform

Question 1: Do you prefer a partial reset, a phased reset or a combination of the two?

Question 2: Please comment on why you think a partial/ phased reset is more desirable.

Overview

3. The consultation sought views on the type of reset that is preferred under the current system. **Majority of the responses support phased resets** over partial resets, because this reset type is more effective at **removing 'cliff edges'**, but pointed to the need for further modelling.

Summary

4. Under the business rates retention system, local authorities will have the opportunity to grow their business rates as a means of attaining additional income. At the same time this will have to be balanced with growing needs across the sector as a whole. In order to maintain this balance across the sector we proposed two different options of resetting Business Rates Baselines (BRBs). One way is a partial reset to the system, which was proposed in the previous consultation. A partial reset would rebalance local authorities' baseline funding needs whilst allowing those authorities who grew their business rates during the reset period to retain an element of their growth beyond the reset. The consultation sought views on a phased reset, where authorities retain each year's growth (or loss) in rates for a set number of years and thereafter that growth (or loss) is redistributed.

5. The majority of responses were in favour of a phased reset and saw many benefits of this option. Responses argued that it **helps with financial planning, gets rid of 'cliff edges' and allows for a smoother transition**. A small number of authorities' responses favoured partial resets.

6. The majority of responses called for **more modelling and worked examples** to illustrate the impact of each option on different authority types, under a range of different growth scenarios, before any final decision is made.

Question 3: What is the optimal time period for your preferred reset type?

Overview

7. There were **mixed opinions on the optimal time for the preferred reset type**. Some support a shorter reset period to support sustainability, whilst others argued for a longer period to provide a strong growth incentive.

Summary

8. **Some responses favoured 5 years as an appropriate time period for the preferred reset type**. Many argued it is a good balance between incentivising growth and providing for

redistribution to reflect changing needs. Others have asked for 6 year resets to align with revaluations.

9. Many called for more **modelling showing the level of distribution and retained growth** under different lengths of time for resets.

Question 4: Do you have any comment on the proposed approach to the safety net?

Overview

10. There was **broad consensus on the continuation of the safety net**. The majority also supported an increase in the level of the safety net, some expressed concern about funding an increased safety net through a top slice of the system.

Summary

11. The Government set out its position that the business rates retention system should remain one of both reward and risk for local authorities. The safety net is the mechanism that ensures that this risk is proportionate and sustainable at an individual local authority level when shocks to the system occur, such as the closure of a major ratepayer. The consultation sought the sector's views of setting the safety net higher to reflect the higher level of risk that comes with an increased retention rate. The consultation proposed to fund the safety net through a top-slice and the levy account.

12. The majority of responses supported the continuation of the safety net and there was **consensus that it should be increased.** Many support the view that a higher retention rate should lead to a higher safety net. Some however do not want the safety net to be raised, unless this is matched by an appropriate policy on levy, as they support the continuation of levy both as a funding source for the safety net and as a means of equalising the benefit of national growth on a more 'even basis, relative to need'.

Question 5: Do you agree with this approach to the reform of the levy?

Question 6: If so, what do you consider to be an appropriate level at which to classify growth as 'extraordinary'?

Overview

13. There were **mixed opinions on the appropriate level of the levy threshold**, some argued for a higher levy threshold whilst others would like it to be lowered.

Summary

14. The consultation proposes that the levy should be raised so that only growth that is 'extraordinary' would be subject to it and then function as a cap over that threshold. **The majority of responses agree with this proposal** as it enables more councils to keep more of their growth in their local areas, and in turn improves incentive effects.

15. Some of respondents disagree with this approach to the levy as they believe there should be a mechanism for controlling growth. Instead, these respondents called for a smaller levy threshold as they argued that unless gearing disparities are dealt with, so that risk and reward are similar for all authorities, they see the levy as the most appropriate way of funding the safety net.

Question 7: What should the fall-back position be for the national tier split between counties and districts, should these authorities be unable to reach an agreement?

Question 8: Should a two-tier area be able to set their tier splits locally?

Overview

16. There was **strong support from the sector for the ability to negotiate and set tier splits locally.**

Summary

17. The consultation highlights how there is an opportunity (with a suitable fall-back position) for tier splits to be sector led, with the representative bodies for counties and districts determining the appropriate tier split between them.

18. Majority of responses would like to see a default national tier split to be set by the Government, in case a decision could not be made by the representative bodies. Many highlighted their support for areas being able to set a locally agreed tier split.

19. Some responses suggested a ratio of 50:50 to recognise the shared partnership for delivering economic growth in a two-tier area.

20. However, some responses propose two main principles when deciding on tier split arrangements. This includes that no council should be worse off as a result of changes to tier splits and suggested keeping the same tier split for 50% of growth achieved and only negotiate the remaining 25%.

Question 9: What fiscally neutral measures could be used to incentivise pooling within the reformed system?

Overview

21. Most respondents **agreed that there are many benefits to pooling and that they would like it to be incentivised but no strong themes emerged on what the most appropriate incentives might be.**

Summary

22. The Government believes that pooling is desirable and offers many benefits including better planning across a functional economic area. However, if the levy is reformed, a key incentive to pool will be lessened. Therefore, the consultation asks the view of the sector how pooling should be incentivised through fiscally neutral measures .

23. The majority of responses agree that pooling should be incentivised and suggested a number of ways that it could be done. This included fiscally neutral incentives such as the ability to alter tier splits or for pooled authorities to set their own tier split; increasing the levy threshold; and longer resets. Fiscal incentives were also suggested such as having the ability to retain an element or all of the 25% of growth which will accrue to the Government under the revised business rates retention system and incentives outside of the BRR system, such as preferential rates for borrowing to support economic development.

Question 10: On applying the criteria outlined in Annex A, are there any hereditaments which you believe should be listed in the Central List? Please identify these hereditaments by name and location.

Question 11: On applying the criteria outlined in Annex A, are there any listed in the Central List which you believe should be listed in a Local List? Please identify these hereditaments by name and location.

Overview

24. **There was broad support for the existing criteria outlined in Annex A**.Under the Local Government Finance Act 1988 the Secretary of State has the power to designate hereditaments to the central non-domestic rating list. The consultation stated that ministerial decisions are likely to be informed by the following criteria:

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.

Summary

25. The central list comprises of properties which by their nature are not suitable for assessing on the local ratings lists. In many cases this will be networks that span across multiple areas, such as broadband infrastructure; gas and electricity networks; and some rail networks. The consultation included an annex which sets out the criteria for whether hereditaments should be listed in the Central List and invites authorities and rate payers to see if there any hereditaments that should be moved between the lists on application of the criteria.

26. The majority of responses agreed with the criteria outlined in the annex. Many agree that the scope of the Central List should not be expanded to include other high-risk hereditaments and support the proposal to allow authorities to retain large hereditaments on their Local Lists.

27. The majority of responses highlighted that they would like a commitment from the Government that, if there is any movement from the Local List to the Central List (or between local lists), compensation will be made to the affected authorities.

Question 12: Do you agree that the use of a proxy provides an appropriate mechanism to calculate the compensation due to local authorities for losses resulting from valuation change?

Overview

28. Majority of respondents **agree that the use of a proxy** provides an appropriate mechanism to calculate the compensation due to local authorities for losses resulting from valuation change.

Summary

29. The consultation considers how to measure the compensation due to local authorities if business rates losses due to valuation change were to be centralised and how to mitigate the impact of provisions on authorities' ability to spend on services in-year using accounting adjustments. On measuring compensation, it asks the sector if the use of a proxy provides an appropriate mechanism to compensate local authorities for losses resulting from valuation change. It rules out the accounting arrangements that were scoped to mitigate the impact of provisions because they were not implementable.

30. The majority of responses agree that the use of a proxy provides an appropriate mechanism to calculate the compensation due to local authorities for losses resulting from valuation change, and some suggested they support the proposal in the absence of any practical alternative.

31. Many authorities highlighted they would like local authorities to have the flexibility to identify significant valuation change not due to developmental change that was not backdated to the first day of the list and so would not be captured by the proxy.

Question 13: Do you believe that the Government should implement the proposed reform to the administration of the business rates retention system?

Overview

32. **The majority of respondents indicated broad support in principle for the alternative model, and asked for further modelling to demonstrate how this will work practically**.

Summary

33. The Government consulted on a proposal to reform the way the business rates retention system is administered. This proposal offers a way of addressing the volatility caused by appeals and other valuation change. It would also simplify the system and give more certainty to authorities of the level of income they can expect to see on a year to year basis.

34. The majority of responses indicated broad support in principle of the alternative model, as many understand its benefits and are keen to see it delivered. However, **the sector have asked for more modelling, to demonstrate how this will work in practice using 'real' numbers, before any final decisions are made**. Many highlighted some benefits of this system, for example, Section 31 grants would no longer be necessary for new reliefs, a complex methodology would not be needed to reset business rates baselines, and top-ups and tariffs would automatically consider the impact of revaluations.

35. Many of individual local authorities are **keen to see how it works** to deliver the original aims of the business rates retention system and called for a further consultation with detailed modelling before any final decisions are to be made. Some concerns from the responses on the alternative model were:

- If the alternative system limits 'gaming';
- Further clarification on why the alternative system results in a one/two year time lag for when growth materialises and what transitional arrangements could be put in place;
- The effects the proposed reform would have on different types of local authorities;
- How growth will be measured; and
- How the new system will impact local authority budget setting.

36. Some agree with the proposed reform only if we implement a phased reset in 2020/21 using 2017/18 data. They would like a one-year delay in its implementation in order to 'ensure a smooth transition to this new way of working'.

Question 14: What are your views on the approach to resetting Business Rates Baselines?

Overview

37. There were **mixed opinions on the approach to resetting Business Rates Baselines**. The majority of respondents noted that resetting baselines in this way may not be necessary if the alternative model goes ahead.

Summary

38. The consultation sets out a way to calculate billing authority baselines. There was some concern about the practical application of the proposed changes. There was broad support for proposal (a) where the Government could base the deduction on authorities' own estimate of provisions as evidenced by their 2018-19 NNDR3s. Proposal (b) where the Government could base the deduction on its own estimate of future appeal losses was seen as less acceptable given the impact of appeals. There was some support for proposal (c), which is to ask authorities to make a one-off estimate of their provision on a centrally-determined basis as a potential option, but responses wanted further information about the centrally determined guidelines that would apply.

39. Some responses expressed their preference to use the new baselines to be set initially using the 2018-19 NNDR3s and then updated in the following year for 2019-20 NNDR3s, so authorities keep all the growth collected. Some also agree and highlight that the appropriate use is the 2018/19 return, given the 2017/19 NNDR3 covered the period of the revaluation. There are some outstanding national appeals issues which are unlikely to have been addressed by the 2018/19 list. Many individual responses highlighted using 2 or 3 years data may be useful instead, while others suggested to take averages from 2013/14 to 2018/19.

40. Many however indicated that the proposal to 'effectively reset baselines based on a single year's data' would not be equitable and furthermore is a damaging incentive for authorities. They argue that the level of retained business rates growth in 2018-19 is significantly greater than in preceding years and is not representative of business rates growth since the business rates system was introduced. They suggest that at a full reset the baseline should be based on at least the last two years. These responses support basing resets on authorities' own estimates of business rates provisions, as evidenced in NNDR3s.

Question 15: Do you have any comments at this stage on the potential impact of the proposals outlined in this consultation document on persons who share a protected characteristic? Please provide evidence to support your comments.

41. **Not many respondents expressed an opinion to this question**. Some who did respond mentioned their concerns on funding reductions.

Other Comments

42. Some respondents took the opportunity of the consultation to raise concerns about the full reset in 2020/21. Some respondents suggested that it should be delayed, including to align with the next revaluation, or undertaken on a partial basis. Others felt it was an important way of sharing growth more evenly across the system.

Conclusion

43. The responses to the consultation paper entitled “Business Rates Retention Reform: Sharing risk and reward, managing volatility and setting up the reformed system” are being used to inform the development of business rates reform policy. In particular, the government would like to work with the sector through the Steering Group and Working Groups to discuss the proposed reforms further, before making decisions.