

SDCT Update - Reform of the central and local ratings lists

Business Rates - System Designs Working Group Meeting 07/02/18

The following 6 questions were considered and discussed by the working group. The first 3 questions were focused around **Consistency and Fairness** questions 4 and 5 were around **Options for Reducing Volatility** and the final question looked at **reform beyond 2020/21**.

Q1 Objective

In order to provide certainty to both ratepayers and local government there is a requirement to devise transparent criteria for eligibility for inclusion on the central list.

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.

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.

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

The working group supported MHCLG's proposals to bring forward clear and consistent criteria based on current legislation and the principle of 'network' hereditaments. They also felt that it is correct to assume a hereditament to be best suited to local lists unless the hereditament is clearly part of a national network.

The working group suggested that the criteria be informed by what can be controlled and influenced by an authority; and that where control and influence are not present then the hereditament is most suited to assessment in the central list.

MHCLG stated that it is the Department's intention that these reforms be business neutral.

MHCLG agreed to come back to the group with an update on the number of whole hereditaments which have been moved onto or off the central list since 2013.

Local government also asked MHCLG to consider whether Ministry of Defence hereditaments would be better suited to the central list.

Q2 Objective

Looks at the optimal way for local authorities and ratepayers to identify hereditaments for re-designation to a different list identifying hereditaments that are anomalously on local lists or the central list. MHCLG proposal is to draw 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 MHCLG will publish it in consultation form, in order to carry out an evidence check.

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?

MHCLG described the high level steps proposed in the paper: to draft criteria; identify the hereditaments subject to moving list; and consult stakeholders. The initial list will draw up a view of which hereditaments are incorrectly listed. Following this an evidence check will be undertaken, seeking the views of stakeholders. The evidence check approach is preferred to a 'call for evidence' which may lead to large numbers of responses being outside relevant scope.

Q3 Objective

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. There will therefore be a need to assess the impact of the movement of any hereditament onto the central list to ensure that no ratepayer is disadvantaged.

Proposal is 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.

There will be a need to develop a methodology for measuring the accurate non-domestic rating income in respect of a hereditament and address at what points in time we will take this measurement. MHCLG 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 MHCLG 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.

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

The working group acknowledged the complexity of recalculating baselines when hereditaments move between lists. Various specific issues were noted, such as the impact of provisions and outstanding appeals, section 31 grants and discretionary relief as well as the impossibility of knowing a hereditaments' true rateable value at a specific point in time.

It was agreed that the recalculations should be designed on the **starting principle that they leave authorities no better and no worse off**. It was also agreed that recalculations of baselines following revaluation was a good model to emulate. It was further agreed that this subject would be re-visited in the paper on transition.

The working group noted that hereditaments moved into the central list would no longer be eligible to pay local supplements. They asked that MHCLG consider compensating authorities for hereditaments not subject to levies. MHCLG noted that the process for nominating a hereditament onto a different list will include an opportunity for affected rate payers and authorities to respond to proposals.

The working group also requested that MHCLG consider the use of transitional reliefs for Local Growth Zones/ Designated Areas.

Q4 Objective

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.

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. 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.

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.

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

London councils supported the idea of area lists, particularly around transport infrastructure.

The working group felt there was not enough information to comment on area lists at present but agreed they should remain in consideration.

Some members suggested that the percentage of the billing authority's rateable value a hereditament represented could help determine whether it should be considered for inclusion on an area list to help with risk management.

How area lists could be used to deepen pooling arrangements was briefly discussed. Group members asked if all pools would be expected to have area lists were this reform to be introduced. The group noted that if area lists were to be created then governance for Pools would need to reflect this.

Q5 Objective

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.

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.

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.

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?

MHCLG explained that possible criteria would include a narrow list of hereditament types that are nationally significant and would exclude large hereditaments that are not nationally significant, such as supermarkets.

The working group recommended that MHCLG remove from consideration the nomination of national infrastructure to the central list by authorities. The main objection to this proposed reform was that it would create inconsistency and so undermine the principles behind reform of ratings lists. Additionally, it was felt that this would be too open to 'gaming'.

Members noted that the narrow list of hereditaments that could be nominated would make the reform ineffective in addressing problems faced by small districts where non-national infrastructure such as supermarkets can still dominate as a proportion of a local list.

MHCLG noted that other mechanisms were available to help authorities manage risk which may be more suited, such as the safety net and centralising appeals risk.

Q6 Objective

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.

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.

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.

Learning from the 2020/21 reset to refine and develop our process for identifying and moving hereditaments between lists.

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

The working group agreed that it was in the interests of consistency future reform to include extending charitable reliefs available to ratepayers whose hereditaments are listed in local lists to hereditaments in the central list.

They also supported pursuing the power of direction for the Secretary of State for the purpose of easing administration. However, members cautioned MHCLG not to be too broad in the creation of this power, so as not to cause uncertainty in the future. Some felt the criteria should be enshrined in the primary legislation whilst others felt the power to amend the criteria should only exist in specific and exceptional situations. Others felt that the power to change the central list should also specify a process for challenge.

The working group also noted that it is important that there is a good line of communication between the VOA teams that maintain the central and local list.

The working group asked that the forward look be amended to explicitly note that **hereditaments to move between lists will need to be identified and confirmed in advance of the settlement in September 2019.**

Actions

The following actions were agreed:

- MHCLG will present the recommendations of the working group to the steering group to seek their endorsement.
- MHCLG will draft the criteria discussed for the working group's consideration. It is expected that this will be presented to the working group at its April meeting.
- The VOA will present short notes on railway hereditaments and retailers in transport hubs at the next working group in March.
- MHCLG will do further scoping work on the position of MOD properties.
- MHCLG will report back to the group on the number of whole hereditaments which have been moved onto or off the central list since 2013.