

The Rating Surveyors' Association

(FOUNDED 1909)



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BUSINESS RATES REVALUATION 2023: CONSULTATION ON THE TRANSITIONAL ARRANGEMENTS

FOREWORD

I write to you as President of the Rating Surveyors' Association (RSA) following the Government's invitation in seeking views from businesses and business representative organisations, local authorities, rating agents and others involved in the business rates system.

- The RSA was founded in 1909 and has around 550 members drawn from private practice, corporate bodies, the Valuation Office Agency (VOA) and local authorities. Our primary function is to work with the various bodies responsible for non-domestic rating to improve the business rates system.
- We work closely with other professional bodies such as the Royal Institution of Chartered Surveyors (RICS) Local Taxation Policy Panel and the Institute of Revenues, Rating and Valuation (IRRV).
- We would be happy to discuss and explore the issues we raise in this letter in more detail once you have had the opportunity to review our comments and those of other respondents.

RSA Response to Business Rates Revaluation 2023: Consultation on the transitional arrangements

A link to the Consultation document is below:

<https://www.gov.uk/government/consultations/business-rates-revaluation-2023-consultation-on-the-transitional-arrangements/business-rates-revaluation-2023-consultation-on-the-transitional-arrangements>

The Government is currently required by the Local Government Finance Act (LGFA) to introduce transitional arrangements at each revaluation, which may result in a revised calculation that seeks to enable businesses to adjust to their new bills (s.57A LGFA). The legislation also requires that the aggregate amount of business rates collected is unaffected (so far as practicable) by the transitional relief (TR) scheme (s.57A(10)LGFA). A consultation on transitional arrangements for the 2023 revaluation was announced as part of the Business Rates Review: Final Report published in October 2021.

By way of preamble, we believe it is useful to replicate the summary of responses relating to transitional relief from the Business Rates Review: Interim Report published in March 2021 as many of the themes and issues raised here are replicated and amplified in our response.

- 3.24 Most respondents felt that downwards transitional arrangements should be abolished, but support for those with rising bills should be maintained.
- 3.25 Most respondents noted that downwards transitional arrangements unfairly penalised those properties who had seen a fall in their rateable value. Some respondents commented that this was exacerbated for businesses in areas that had seen economic downturn and could stunt economic growth. It was emphasised that businesses such as this should not be funding gradual increases for those facing higher bills.
- 3.26 Similarly, some respondents said that transitional arrangements prevent the system from accurately reflecting actual property market values and fail to take account of varying levels of local economic growth, meaning that transitional arrangements often have a disparate regional impact.

- 3.27 Respondents suggested that downwards transitional arrangements were in place only due to the revenue neutrality requirement of the scheme, and by removing that requirement businesses with lower Rateable Values post revaluation would see bills drop much sooner. Respondents commonly felt that the revenue neutrality requirement for transitional arrangements was unnecessary and is unlike any other tax in this regard. Many respondents said that the requirement to be fiscally neutral was a detriment to the design of the relief. Some respondents noted that this added to the confusion of any overly complex reliefs system.
- 3.28 Many of the answers suggested that any upwards transitional arrangements should be funded by central Government. A supplement on the multiplier for all ratepayers to fund those with increasing bills was also suggested by a few respondents, though this was a less popular option than central funding.
- 3.29 Many respondents noted that shortening the revaluation cycle could largely negate the need for any transitional arrangements, as bills would more closely reflect current values, and would be less likely to change significantly between revaluations. It was noted that if the Government still found a transitional relief scheme to be necessary with a shorter and more regular revaluation period, this should only be in place for those facing significantly higher bills.
- 3.30 Some noted that the cap on the reductions in downwards arrangements reduced the benefit that a revaluation should bring to ratepayers. Several respondents said that certain properties never found the full benefits of previous revaluations and were paying rates bills that were not reflective to market values for many years. Most respondents agreed that reductions in ratepayers' liabilities at a revaluation should be reflected in bills immediately.
- 3.31 There were varied comments on the abolition of transitional arrangements. Some noted that they would like to see transitional arrangements abolished completely from the upcoming 2023 revaluation onwards, whilst others felt that the current transitional period should end in March 2021, rather than 2022, to help struggling businesses meet their actual bills in the short term.
- 3.32 Some respondents suggested that the Government should consult separately on transitional arrangements and any possible alternatives.

A recurring theme is the strong desire to abolish downward phasing, which is largely seen as inequitable (and has led to instances of some ratepayers receiving rates demands significantly higher than their passing rent) while maintaining some form of upward phasing. Our response is sympathetic to this position.

Since the introduction of TR in 1990, the Government has applied a limit on the increase in the amount of rates payable where rateable value has increased significantly at revaluation. In order to offset the resultant loss in business rates revenue, and thereby comply with s.57A(10), a similar mechanism has been introduced whereby rates payable cannot fall below a certain level when rateable value has significantly dropped at revaluation.

Section 57A(10) of LGFA states 'the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable... would be so payable apart from the regulations.' – essentially overall rates payable must stay at a level had there been no TR scheme. It does not stipulate that in order to achieve this downward 'losers' effectively pay for upward 'winners'.

(10) In making regulations under this section the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all billing authorities by way of non-domestic rates as regards a particular relevant period is, after disregarding any adjustments made to take account of amounts being payable at times other than those at which they would have been payable apart from the regulations, the same as the aggregate amount which would be so payable apart from the regulations.

Whilst we recognise the logic and prudence of a fiscally neutral TR scheme, we do not believe this needs to be achieved by a balancing of upward and downward phasing schemes. We propose that maintaining an upward scheme while abolishing a downward scheme could be funded in full by a relatively small addition to the Uniform Business Rate (UBR).

It has been suggested that the introduction of a three year revaluation cycle negates the need for transitional arrangements completely, a view that we largely disagree with. We note the abolition of transitional arrangements in its entirety would require a change to primary legislation and we would hope such a fundamental change to the rating system would be communicated giving

ratepayers sufficient notice to prepare, ideally over the full three year revaluation period.

The consultation states 'Business rates revaluations update rateable values, and therefore, rates bills to reflect changes in the rental market. This helps ensure that shifts in economic activity which have driven changes in market values are fairly reflected in business rates liabilities.'

Not all changes in rateable value are driven by economic movement. A change in valuation methodology (for example from Contractors Test to Profits Method) could be the cause of dramatic change in rateable value and we believe in such circumstances ratepayers need to be afforded some protection through transitional arrangements.

The consultation is divided into four sections and contains a total of six questions which we will comment on in the order published.

Section 2. The role of the transitional arrangements:

Question 1: how do you believe the government should strike the balance in the 2023 transitional arrangements between supporting ratepayers facing increases to their bills and allowing the effect of the revaluation to flow through into bills?

The 2017 rating revaluation was originally planned to last 4 years but was extended to 6 meaning rateable values are based upon the 2015 rental market which has experienced significant subsequent change. Consequently, some sectors have seen sustained growth and others substantial contraction while emerging markets have become more established (the flex office market for instance) and the whole country is still processing and responding to the Coronavirus pandemic. On a local level these changes are much more pronounced. The significant lag between revaluations and volatility of the market strongly favours a robust transitional scheme that will genuinely afford relief to ratepayers facing the largest variances. We believe such a robust scheme sees the end of downward transitional provisions.

The argument for abolishing downward phasing in 2023 is underpinned when one considers the negative effect on many markets that Covid-19 has had. Some 400,000 Material Change of circumstance (MCC) appeals were quashed by legislation so that “the general impact of the pandemic on the property market will not be reflected until the next revaluation in 2023” (Luke Hall, The Minister for Regional Growth and Local Government discussing the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill). Downward phasing will directly penalise those very companies worst affected.

Ratepayers that take professional rating advice will generally be aware of market changes and the potential effect this may have on their rateable values at revaluation as their advisor will conduct or have access to market research. We accept that unrepresented ratepayers are unlikely to be able to access such research although should have some understanding of the wider picture if they pay a rent. Owner occupiers of small business are least likely to be able to access data on market fluctuations, but it should be possible for all ratepayers to be informed of a forthcoming revaluation with their annual rates demand for example or via email campaign (increasingly Local Authorities are sending demands electronically) and whilst such communications will not provide detail it will offer advance notification allowing ratepayers to prepare accordingly.

As stated in paragraph 1 of the Scope of the Consultation: ‘Revaluations serve an important role in the rating system by ensuring rates bills reflect the up-to-date value of properties. They, therefore, ensure everyone pays the correct and fair share of business rates’; TR by its nature operates counter to this. If only those hereditaments seeing large increases are affected by phasing this ensures a greater proportion of ratepayers are paying the correct and fair share.

Rateable values are still set with reference to the rental market two years prior so there will always be an imbalance which is difficult to reconcile where economic circumstances result in a rapidly rising (or falling) rental market. The trend for shorter lease lengths can be considered beneficial in such circumstances as this will allow occupiers greater flexibility in terms of future planning and whether to stay or go when faced with a potentially significant rent increase. Where such occupiers are

caught by a large increase in rateable value we believe it is appropriate they are offered some protection in liability through an upward phasing scheme.

Significant increases in tax liability are unwanted and unwelcome, significant decreases in tax liability are not and we believe it is right that the transitional scheme protects those facing large increases while those that see reductions receive the benefit immediately.

Section 3. Transitional relief

Question 2: what format of transitional relief do you think should be provided for the 2023 revaluation?

Our proposal is for downward phasing to be abolished.

Upward phasing should remain and should be equalised across the life of the rating list. Previous revaluations have seen rates payments subject to transitional arrangements in the last year of the list which is undesirable for two reasons; firstly, in such circumstances the ratepayer never pays the fair or correct amount. Secondly a rates liability subject to transitional arrangements in the last year of the list that then sees a large increase or decrease in rateable value upon revaluation sees the phasing affected liability amount subject to further phasing arrangements and a resultant amount that bears no relationship whatsoever to the rateable value. Whilst rating professionals may be able to unravel the complexities of the transitional scheme, we do not think it is fair or reasonable for unrepresented ratepayers to be subjected to such vagaries.

We strongly advocate a significant simplification to transitional arrangements for the 2023 revaluation and indeed subsequent revaluations and elaborate in question 4.

We propose equalisation over the life of the rating list sees an upward cap in years 1 and 2 (of a 3 year revaluation) but that year 3 liability is unaffected by phasing irrespective of the increase in rateable value.

Question 3: do you think that we should continue to provide assurances through transitional relief that bills will not rise by more than a set percentage due to the revaluation?

In short, yes.

It is important that upward transitional caps are meaningful and deliver a tangible benefit to the ratepayer. In very broad terms if the market increases by 20% a 25% cap on increases is largely meaningless. The early years' transitional increases under the 2017 rating for properties over RV £100,000 (42% year 1, 32% year 2 and 49% year 3) meant only very few ratepayers saw any sort of benefit.

In question 4 we address the levels of the transitional caps.

Question 4: do you think we should provide different caps for different sizes* of properties?

The rationale for having different caps for different rateable values seems to be predicated upon the notion 'occupiers of smaller properties [with smaller rateable values] are less likely to be able to manage large increases in their rates bills'. We believe this statement to be fundamentally flawed as there are many multinational companies that will pay rates on small hereditaments (car parking spaces, storage areas etc). Equally there will be many small businesses with small rateable values that do not pay any (or very little) rates at all by virtue of Small Business Rates Relief or other dispensations.

Very little independent information is written about TR and possibly the only publication on the subject dates back to February 2003 – a RICS document entitled The future of business rating transition in England which states: 'The rating system needs to be made simpler and given more clarity. A simpler and faster transitional scheme is an extremely effective way of achieving this goal.' We strongly support this statement and do not believe the current caps based upon rateable value promote this.

Different caps are also inequitable at the cross over points – for example under the 2017 list scheme a property with a rateable value of £99,999 (£99,500 in reality) qualifying for upward relief saw a TR cap in year 1 of 12.5% while a property with a rateable value of £100,000 saw the cap at 42%.

We propose a universal upward transitional cap is introduced for all sizes of rateable value and this will be applied in years one and two of a three year revaluation. We propose these caps are set somewhere between 10% and 20% with a strong preference for a lower percentage in year one so ratepayers can genuinely benefit and better prepare for future years.

A scheme to support smaller businesses could be introduced when an affected rateable value increases upon revaluation to a level where SBRR would no longer apply. (This could be expanded beyond the context of a revaluation to encourage the growth of small business.)

* We have taken the phrase 'different sizes of property' to mean different levels of rateable value.

Section 4. Funding transitional relief

Question 5: what are your views on how we should fund transitional relief within the requirement for the government to have regard to the object of securing (so far as practicable) that the scheme is revenue neutral over its life?

We do not believe it is a requirement of government to deliver a revenue neutral transitional scheme; legislation states overall rates payable must remain a level had there been no TR scheme.

We understand why a revenue neutral scheme is a desirable objective but in attempting to achieve this in 2017 the TR arrangements were nothing short of disastrous, particularly at the highest RV bands. For example, a property which saw its rateable value fall from £250,000 to £125,000 would qualify for downward relief of 4.1% but instead of seeing rates payable halve between 2016/17 and 2017/18 their liability was reduced by less than 2% (taking into account the addition for inflation). Similar limits for the subsequent 4 years of the 2017 list meant these years' rates

payable considerably exceeded the unphased amount which is clearly counter to the 'correct and fair' redistribution as a result of a revaluation.

Significant falls in retail rateable values between the 2017 and 2023 lists are widely predicted whilst significant increases in sectors such as data and logistics are also predicted. If a self-funding transitional scheme is introduced in 2023 similar to that in 2017 the perverse scenario presents itself of a retailer with considerable high street exposure effectively subsidising (in terms of business rates contributions) its direct on-line retail competitor.

If the Government genuinely wishes to support high street retail, we strongly urge them to drop downward phasing.

Our proposal is that any loss of business rates revenue as a consequence of the abolishment of downward phasing is paid for by an increase in the rate poundage.

Alternatively, and given business rates income is almost £30bn each year the Government may wish to consider funding upward phasing itself. Between 1990 and 2021 the rate of inflation (CPI) has seen prices double (source: Bank of England) although over the same period revenues from non-domestic rating have almost trebled.

Question 6: do you have any other views on the format of the transitional arrangements for the 2023 revaluation?

We would urge the Government to consider implementing a transitional scheme for the 2023 revaluation that can be ported unaltered into subsequent rating lists. This has the significant benefit of giving ratepayers surety over transitional limits going into every new revaluation and negates the need for consultation beforehand.

We welcome the introduction of three yearly revaluations but the publication of the draft list and transitional arrangements 3 or 4 months prior to the list going live does not give ratepayers much time in which to plan financially. Many companies have to submit budget estimates well before this and removing the uncertainty caused by

a new and unique transitional scheme for each revaluation will undoubtedly be beneficial.

The adoption of the scheme we propose is likely to see the number of hereditaments subject to transitional arrangements fall significantly from current levels.

The need for transition becomes less relevant with the shortening of the revaluation pattern; reducing the gap between AVD and date of compilation and/or the length of the revaluation itself see closer alignment with the current rental market and the need for transition becomes lessened. While an annual revaluation with an AVD one year prior may be aspirational there would be no need for transitional arrangements in these circumstances.

Conclusions

- Upwards Phasing maintained
- No Downwards Phasing
- Funded by a modest UBR supplement on all properties
- Fixed thresholds in Year 1 and Year 2
- No TR in Year 3
- Replicated from one Revaluation to the next
- No RV thresholds

We thank you for the opportunity to respond to this Consultation. Should we be able to offer any further assistance or evidence, please do not hesitate to contact me.

For and on behalf of The Rating Surveyors' Association

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