

Paper for consideration by the National Ratepayers Forum

Ideas for Possible Changes to the Non-Domestic Rating System.

**Charles Partridge – Royal Institution of Chartered Surveyors
Peter Cosmetatos – British Property Federation.
Roger Culcheth – National Federation of Small Businesses.
Oliver Harwood – Country Land & Business Association.**

To be presented to the National Ratepayers Forum

Monday 6th June 2011.

Index.

Page.	Item.
2	Index
3	Preamble
6	Introduction
Part 1	
7	1.0 Responsiveness of rating system
7	1.1 Background to Revaluations
7	1.2 Speed of reaction to changes in the property market.
7	1.3 More frequent revaluations
9	1.4 Revaluations and the Fixed Term Parliament Bill
9	1.5 Abolition of transitional arrangements
10	1.6 Restrictions on changes in MCC (Material Change of Circumstance) appeals
10	1.7 MCC Appeals
11	1.8 Restrictions on minor changes in assessment
Part 2	
12	2.0 Other substantive issues
12	2.1 Review of exemptions.
12	2.2 Review of reliefs.
13	2.3 Green agenda
14	2.4 Minimum level liability for rating
15	2.5 Review of Plant and Machinery
15	2.6 Assessment of buildings occupied by public bodies
16	2.7 Rating and e-commerce
Part 3	
17	3.0 Administration and mechanics
17	3.1 Closer cooperation between the VOA and private sector rating practitioners
17	3.2 Education and demystifying the rating process
18	3.3 Acquisition of rental data
18	3.4 Reducing the number of unnecessary appeals
20	3.5 Greater use of Post Codes or other Unique Property Reference Numbers (UPRN)

Index continued

20	3.6	Standard and electronically readable rate demands
21	3.7	Self-assessment
21	3.8	Self-certified measurements
22	3.9	Tackling the diffused responsibility and variable standards in collection of rates.
22	3.10	Transfer responsibility for rating policy from CLG/WAG to HM Treasury.
23		Conclusion.

National Ratepayers Forum

Paper on Ideas for Possible Changes to the Non-Domestic Rating System.

Preamble

At the November meeting of the National Ratepayers Forum (NRF), it was suggested that it would be timely to consider a range of matters that might be the subject of change within the NDR system.

Following discussion, it was agreed that a small working party should prepare a briefing paper on possible areas for change and bring that paper back to the next meeting of the NRF. Charles Partridge (RICS) offered to lead this work and has been assisted by Oliver Harwood from the Country Land & Business Association, Peter Cosmetatos from the British Property Federation and Roger Culcheth of National Federation of Small Businesses. Further suggestions were made by members of the Professional Bodies Liaison Group - a group representing the three main professional bodies concerned with the NDR system; the RICS, RSA and IRRV.

The Local Government Resource Review is currently considering a range of ideas relating to the future of local government finance. One of the most controversial of which is the suggestion that UBR should be replaced in whole or in part by locally fixed rates. Arguments, both for and against this proposal, including how to deal with the thorny problem of rate equalisation, are being extensively debated elsewhere by their respective supporters. The working party has, in preparing this paper, concentrated on other suggested reforms.

A number of ideas have been put forward as a result of this consultation, some of which are simple, others complex, some potentially controversial and others which might be more widely acceptable. The authors of this paper spent some time debating whether in preparing this paper they should only include ideas which they or the organisations they represent were prepared to support, but felt that if the ideas which evolve from this discussion paper are to truly transparent then all the suggestions which have been put forward should be articulated. It follows that the working party are not, in putting forward these ideas, making any recommendations for approval or acceptance; these are purely ideas for discussion. Any changes, if they are to be implemented, will need the support of Ministers, officials within HM Treasury (HMT) the Department for Communities and Local Government (CLG), the Welsh Assembly Government (WAG), Billing Authorities (BAs), the Valuation Office Agency (VOA), as well as other stakeholders including ratepayers and their professional representatives.

The paper contains a variety of ideas for change which have been grouped into three sections.

The responsiveness of the rating system.

Other substantive issues.

Administration and mechanics.

Introduction.

Rates have underpinned local government finance for a long time. Rates, and now council tax, form part of a “basket” of national taxes including those on income, profits, expenditure, etc. Property taxes are traditionally used as a source of funding for local government as there is a connection between property values and locality; furthermore, it is generally considered that local people should contribute to the cost of the provision of local services.

Most businesses do not object to the principle of paying tax on the property they occupy, although they may be concerned about the level of that tax. They wish to settle their liability with the least disruption to their business. They expect the NDR system to be modern, transparent, consistent, responsive, capable of simple audit, and inexpensive to operate. The current arrangements are criticised for failing to meet these criteria as well as for their inability to react quickly to changes in economic circumstances.

Part 1

1.0 Responsiveness of the rating system.

1.1 Background to Revaluations.

1990 heralded the first modern revaluation in England and Wales for 17 years. The VOA had at that time few staff with experience of undertaking a revaluation, limited computer development and very little computer experience amongst its staff, and a mainly hard copy record system. Five yearly revaluations with an Antecedent Valuation Date (AVD), (the date at which rental values are fixed) set two years earlier was considered to be the most appropriate arrangement for NDR revaluations at the time. Since then the VOA has built up an experienced core of valuers, developed sophisticated IT programs, and has modernised its property records, most of which are now held electronically. It has also made a great deal of information available on its website. More frequent revaluations, incorporating a shorter period between AVD and the introduction of a new rating list, are now technically possible.

1.2 Speed of reaction to changes in the property market.

Under current legislation values, are “frozen” at the AVD and only a limited number of other changes can be taken into account between revaluations. Although there are exceptions, the changes which can be taken into account are primarily of a physical rather than economic or legal nature.

The system is criticised because it fails to react to the speed at which the economy, and the property market in particular, changes. The increasing speed of change is driven by globalisation, advances in technology, the power of the internet with its associated e-economy, creating problems for a property tax that, by the end of a revaluation period, is based on rents which are seven years out of date. However, it should be noted that many business ratepayers like the certainty that the present NDR system offers in the four years between revaluations.

1.3 More frequent revaluations.

The RICS and other professional bodies are seeking more frequent revaluations, not only to address volatile rental markets, but because this should result in smaller changes in rateable values thus eliminating, or significantly reducing, the need for transitional adjustments. It might be too great a jump to move from five yearly to annual revaluations, however three-yearly revaluations should make the rating system easier to understand and more transparent since the correlation between

current rents and rateable values would be closer. Advances in IT and the wide availability of proprietary property data (see 3.3 below - Acquisition of rental data.) may make it possible to shorten the gap between the AVD and a new rating list from two years to eighteen months or even a year. Changes of this nature would help demystify the rating system and should reduce the number of appeals.

It is clear that business values the predictability of their rate liability in the years between revaluations, even though liability may change in a revaluation year. More frequent revaluations may reduce, from four to two years the period of predictability. There is a trade-off between the length of the period of stable predictability enjoyed by ratepayers between revaluations, and the extent of the uncertainty and volatility arising from the arguable need for transitional relief following a revaluation. More frequent revaluations reduce the duration of the stable periods, however since the changes in values they introduce are likely to be less volatile the number of significant changes in liability should decrease reducing the need for any transitional relief.

Less frequent revaluations provide long stable periods, but at the cost of more extreme volatility and uncertainty when the revaluation takes place.

The introduction of more frequent revaluations might imply the imposition of additional costs on the VOA and its clients CLG/WAG. Whilst the working party is not cognisant of any figures which have been published, it is aware from informal comment that currently it costs at least three times as much to defend a rating list as to compile it. Any reduction in the number of rating appeals as explained in section 3.4 "Reducing the number of appeals" will lead to a cost saving. More frequent revaluations mean that assessments are live for a shorter period. It follows that the benefit to a ratepayer of a successful appeal will be less, reducing his incentive to appeal.

Cooperation between the VOA and agents in the preparation of future rating lists will mean that ratepayers are better informed, reducing the prospect of unexpected changes in their rate liability. A lot of work needs to be done, but the system can change to more closely align rate liabilities with rents which will in turn help address the increasing volatile nature of the rental market.

Question 1.

The NRF may consider it appropriate to express a view on the frequency of revaluations, seeking to balance the desire for certainty with the need for closer alignment of rateable values with current rents.

1.4 Revaluations and the Fixed Term Parliaments Bill.

There may be permanent but unintended tensions created by interaction of the time table set by the Fixed Term Parliaments Bill and the requirement for five yearly revaluations under the Local Government Finance Act 1988. The Bill, if enacted, requires a general election to be held within two months of 7th May 2015, and every five years thereafter, whilst the Local Government Finance Act 1988 requires a revaluation to take place on 1st April 2015 and every five year thereafter. Unless the current arrangements are changed the effect of all future general revaluations for rating will inevitably be high on the political agenda in the run up to every future general election. There are arguments both for and against “all future rating revaluations punching above their weight on the political agenda”.

Question 2.

The NRF is invited to comment upon the desirability of continuing with five yearly revaluations coming into effect in the month preceding a general election.

1.5 Abolition of transition arrangements.

There is no doubt that rental value of property can change significantly over five years, and as a result rate liabilities based on rental value can increase or decrease substantially. Successive governments, particularly in England, have found it necessary to introduce transitional schemes to phase in major increases (and decreases) in liability. It is appropriate that if Ministers decide that the increase faced by a taxpayer, in this instance a ratepayer, is greater than he should be expected to pay in a single year, that they mitigate the increase. What causes controversy and strong argument is the policy approach that the cost of this relief should be imposed not upon the taxpayer generally, but upon those whose rents and rateable values have fallen and who, as a result, are in the greatest need of a reduction in their rate liability. It should be remembered that rental values fall in real or relative terms because the level of business the occupier can conduct from the premises has changed for the worse (in real or relative terms).

Although the abolition of transitional relief would not be universally popular, it can be argued that its existence detracts from the underlying purpose of a revaluation which is to redistribute the tax burden according to changes in the value of properties which is, itself, is a “proxy” for ability to pay.

Question 3.

Does the NRF want to take a view on the continued need for transitional arrangements?

1.6 Restrictions on changes in MCC (Material Change of Circumstance) appeals.

Between revaluations, physical changes to properties or their localities may constitute a “material change of circumstances” (MCC) which the Valuation Officer (VO) is required to take into account and may result in a change in the rateable value of the property concerned.

If annual revaluations were to be introduced, it might be acceptable to limit the type of MCC that could be the subject of a change in rateable value within the rate year. Whilst MCC alterations would need to be retained for splits, mergers etc., changes arising from external factors such as adjoining building works, or additional competition might simply be picked up as part of the annual revaluation, thus reducing the cost of maintaining the system.

Question 4.

The NRF is invited to express its views about the interaction of MCCs and revaluations.

1.7 MCC appeals.

The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended) set different rules relating to the timing of appeals for the ratepayer (or his agent) and alterations to the list made by the VO. The VO can amend the list when an MCC occurs at any time up to the first anniversary of the following list. This means that if an MCC were to take place today, the VO would have until 1st April 2016 in which to alter the list.

The ratepayer however must make his proposal to alter the list whilst the grounds for his appeal continue. Where the appeal arises from a temporary set of circumstances he must appeal whilst those circumstances continue. The logic behind this rule was articulated by the draftsman who argued that it is unfair to ask a VO to consider a set of circumstances which he has not had the opportunity to inspect.

The difficulty with this rule is that in many cases it is not possible to ascertain whether an MCC has had a material impact upon the rental value of a property until sometime after the event. It may take months to obtain a clear indication of the effect which major road works have had on an adjoining shop or petrol filling station, by which time the works may have been completed. The ratepayer or his agent has no alternative other than to lodge a protective appeal at the beginning of the work creating a window of opportunity in which to review the rental impact. This has the inevitable consequence of increasing the number of unnecessary

Question 5.

Should the Material Day Regulations be amended to give the ratepayer the same time frame in which to lodge an appeal as the VO has to alter the list?

1.8 Restrictions on minor changes to rating assessments.

It has been suggested that it is uneconomic for VOs to make small changes to rateable value because the resultant change in liability may be very small and involves both the BA and the ratepayer in unnecessary administration.

Two ideas have been put forward to address this problem; blunting and banding. Blunting is based on the proposition that an assessment should only be altered if the valuation supporting it changes by more than a given percentage; say 5%. On the face of it, this is attractive as it would not only reduce the administration for the BA and the ratepayer but might also help discourage unnecessary speculative proposals (appeals)(see 3.4 below - Reducing the number of unnecessary appeals).

The idea behind Banding is based upon the concept of placing non-domestic property in value bands in a manner similar to the current arrangements for Council Tax. A property would only change band and liability if its value changed sufficiently to move it from one band to another.

The difficulty is that non-domestic property is generally more complex than residential property and banding may create problems and unfairness, particularly around the band margins. Blunting could also be argued to be unfair as even a relatively small change in value perhaps should be reflected in a change in liability.

A major disadvantage of either proposal is that neither blunting nor banding will remove the necessity for the VO to revalue the property following a minor change, and if the VO's revised valuation is on the margin of a blunting or banding change, the intensity of any dispute with the occupier or his agent is likely to increase. The VO would need to advise the ratepayer of his revised valuation even if this did not result in a change in assessment or liability since there must always be the possibility of further cumulative or compensating changes.

Question 6.

Does the NRF wish to investigate the possible use of banding or blunting?

Part 2

2.0 Other substantive issues.

2.1 Review of exemptions.

There are a significant number of exemptions and reliefs from rate liability which arguably distort the NDR system and create uncertainty and unfairness. Legislation relating to exemptions and relief from rates has existed for many years. It has been amended piecemeal with the addition of new categories and is now complex. Property is exempt from rating if it falls within a class specified in Schedule 5 of the 1988 Local Government Finance Act (as amended). This schedule runs to 21 clauses many of which are both detailed and complex, however the main exemptions are:

- Agricultural land,
- Agricultural buildings
- Fish farms
- Fishing
- Certain properties of Trinity House,
- Sewers
- Property of drainage authorities
- Parks.
- Property used for the disabled
- Air-raid protection works
- Swinging moorings
- Road crossings over watercourses
- Property used for road user charging schemes
- Property in enterprise zones
- Visiting forces

The Act contains powers for the Secretary of State to amend or extend this list.

The rationale for many of these reliefs and exemptions may be fully justified whilst others may be out of date, and while not obvious, introduction of rating into currently exempt areas may present particular difficulties and lead to further complications.

The difficulty with property exempt from rating is that it does not appear in the rating list. Since exempt property is not valued, it is not possible to quantify the subsidy provided.

There is a clear distinction between exemption from valuation and exemption from liability. Exempting property from valuation distorts the political accountability process as the extent of subsidy provided by this exemption is obscured. Valuing

property for rating does not imply that it should be liable for rates; it simply makes the cost of this exemption transparent.

There would be a cost if Ministers decided to require all property currently exempt from rates to be valued. In terms of valuing the entire rural land base (some 17.5 million hectares of widely differing values) it would require a significant resource and new skills base.

Question 7.

Does the NRF believe that the cost of valuing property which is currently exempt to identify the loss of revenue from these exemptions is justified in the current austere financial climate?

2.2 Review of reliefs.

Problems arise with rate relief, which may be mandatory or at the discretion of the BA, mainly because the property market is evolving very quickly. At the same time, there is acknowledgement that NDR impacts disproportionately on small business, and recognition of this through the Small Business rate relief scheme, and rural rate reliefs are important to this sector.

Whilst the rules for mandatory relief are clear, the extent of the discretionary powers of a local billing authorities are not simple; whilst the major cost of any local discretionary relief falls on the local Council Tax payer. The difficulties created by these complexities are compounded by inconsistent rate demands (see 3.7 below - Standard and electronically readable rate demands) and the unpredictable quality of staff in BA offices (see 3.9 below - Tackling the diffused responsibility and variable standards in collection of rates.)

Question 8.

Should a specialist panel be set up to review all existing exemptions and reliefs and to recommend categories of property which should be included as well which should be removed as no longer be justified?

2.3 Green Agenda.

We live in a world where climate change and the green agenda have a high profile. It is often suggested that if we are to meet our commitments to emission reductions then the rating system is a tool that can be used to leverage the changes we need to make to our existing building stock.

Unfortunately, whilst superficially it is simple to argue that if green improvements were exempt from valuation for rating this would encourage occupiers to upgrade the buildings they occupy, in reality the position is not so straightforward.

For one thing it is difficult to define what constitutes “green”. For another, any “discount” from rating benefits the occupier who, if the property is held on lease, may not be the person who has either incurred the cost of the “green” items or is in a position to decide on refurbishment and upgrading of a property. If as a society we wish to enhance (or green) our existing property stock, we must incentivise those with the power to make the necessary changes. This is normally the property owner or landlord.

There are other financial incentives such as direct grants and incentives for generation of renewable energy which will provide greater leverage to drive forward the green agenda.

Question 9.

Does the NRF believe that the NDR system should be used to drive the move towards “greener” properties?

2.4. Minimum level liability for rating.

In general, rates are payable if there is a rateable value in the rating list, irrespective of the level of value. There is no relationship between a small hereditament and a small business. It is quite possible for a small hereditament (defined by rateable value) to be occupied by a business of significant size. A VO is required to value the property at its rental value at the AVD on the basis set out in the 1988 Act without regard to its size or profitability.

It is quite possible that in the case of very low rateable values, the cost of collection will exceed the revenue raised. The last government introduced, with certain restrictions, exemption from occupied rate liability for small properties with an RV below £6,000 and additional taper relief to £12,000 for one year from October 2010. The current administration has extended this period of exemption for a further year to the end of to September 2012.

There are many small hereditaments with rateable values under these thresholds and since the current regulations only exempt small businesses occupying small properties, this exemption would not relieve the VOA of the responsibility for valuing these properties (or possibly certifying that they could not be within the value threshold).

Also, it is understood that a significant number of low value properties are the subject of formal appeals, although the incidence of this may have reduced since the exemptions were introduced.

Exempting small properties and businesses in this manner may make sense in terms of the cost/yield issue, but could lead to issues of unfairness. It must be recognised that the progressive introduction of Small Business Rate Relief and both full and partial exemption from rate liability reduces or removes the opportunity to use the

rating system as a lever to achieve change in the way in which society occupies property (see 2.3 above - Green Agenda).

Question 10.

Does the NRF believe this exemption should be extended beyond September 2012 and/or made permanent?

Question 11.

Does the NRF believe that properties with a rateable value below a particular threshold should be excluded from the NDR system?

2.5 Review of Plant and Machinery.

Certain plant and machinery (P&M) if it is in the nature of a structure and does not form part of the production process is included in a rating valuation. The rules are set out in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (as amended). If an item of P&M falls within the Regulations it is valued for rating purposes and will be included in the VO's assessment of the property on which it is located.

The current regulations introduced in 2000 were subsequently amended followed an extensive study by the Wood Committee of what P&M should be included in a rating assessment. The use of P&M is evolving fast driven by technology, innovation, IT and the green agenda. (See 2.3 above - Green Agenda). It is arguable that the time is now right for a further technical committee to investigate which P&M should be included today in the valuation of property for rating purposes.

Question 12.

Does the NRF wish to recommend a further review of the rating of P&M?

2.6 Assessment of buildings occupied by public bodies.

Currently all non-domestic property, unless it is exempt (See 2.1 above - Review of exemptions) is valued for rating purposes and appears in rating lists. It has been suggested that since rating is a tax, valuing and taxing properties which are occupied by public bodies is a waste of public resources. Properties which might fall in this category would include, amongst others, those occupied by the MoD, NHS, local authorities, etc.

Superficially, valuing and taxing these properties may appear unjustified. The difficulty is that many activities traditionally carried out by central or local government are now also performed in the private sector. Leisure centres are just one example. Exempting local authority properties from rates when they compete directly with the private sector could be argued to be unfair.

Whilst there are other buildings occupied by the public sector the use of which clearly does not currently compete with private business, it is difficult to justify exempting some publicly occupied properties and include others.

The original justification for rating buildings occupied by public sector bodies (including the removal of Crown exemption in 2000) was to ensure a level playing field, ensure the costs of occupation were fully recognised and make transparent the contribution of public sector bodies to the cost of providing local services.

Question 13.

Does the NRF have a view on whether the original purpose of rating public sector properties still holds good when the money goes round in a circle?

2.7. Rating and e-commerce

Rates have always been a tax on the occupiers of real property based upon its rental value. Society and commerce is evolving very fast and we see new business models emerging almost daily, many of which are “e-based” but are in competition with existing companies using traditional properties. Existing rating law and practice may not be able to adequately reflect these trends. For example, “on-line” gambling allows people to play a variety of games (blackjack, poker, roulette, etc.) over the internet rather than visit a traditional casino. Unlike the traditional casino, the “on-line” casino operator may not attract any rate liability for his business. Whilst this is not necessarily a problem, the question does arise whether the tax system should encourage virtual businesses over physical ones.

The speed at which e-commerce is developing and the extent to which this impacts upon rental value and thus rate liability is poorly understood. No detailed research appears to have been undertaken. Lack of this data prevents Ministers from considering whether a tax based on commercial property such as the rating system remains appropriate in an environment where there is far more scope for competition between business models with very different levels of reliance on real estate than was traditionally the case.

Question 14.

Would the NRF wish to recommend that an appropriate academic institution is employed to conduct urgent research into this matter?

Part 3

3.0 Administration and mechanics.

3.1 Closer cooperation between the VOA and private sector rating practitioners.

The RICS recommended in its contribution to the VOA's review of the 2010 NDR revaluation that the VOA should work more closely with its professional colleagues in private practice in preparing future lists. Some ideas as to how this might be achieved are covered later in this paper; however the VOA has already started on a process of co-operation. In preparation for the 2000 NDR Revaluation the VOA established the Professional Bodies Liaison Group (PBLG) which is attended by leading private sector practitioners representing the RICS, RSA and IRRV.

The VOA also has senior members of staff on key groups within each of the main professional bodies, i.e. the RICS Rating & Local Taxation Panel, the RSA Committee and the IRRV Council.

Both sides had initial concerns about how these closer liaison arrangements might work, but confidence has now grown. The debate at these meeting is now open with many potential administrative and other problems resolved before they become an issue.

3.2 Education and demystifying the rating process.

There is no doubt that despite the NDR system being simple in concept, there is a lot of misunderstanding amongst ratepayers, the property profession and politicians as to how the system operates. The VOA, and the professional bodies, have both made major efforts to educate the public. The VOA introduced ratepayer forums at national and selected local level in the run up to the 2005 revaluation. These forums provided an opportunity for education and discussion, and dissemination of information, and helped to demystify the rating system. The various ratepayers groups represented at the forums were able to provide information for their members through their own internal networks. The VOA also used various media opportunities to provide information about revaluations for ratepayers, billing authorities and other interested parties. The professional bodies and individual rating practices also held conferences, briefing sessions and published useful notes for ratepayers.

3.3 Acquisition of rental data.

The robustness of a value-based rating system depends on the accuracy of the evidence on which it is based. VOA valuers do not directly operate in the property market and are not therefore able to obtain first-hand knowledge of market forces and agreements reached. They instead rely on the rental data obtained from occupiers/ratepayers by way of forms of return, from statutory information delivered as part of the assessment of stamp duty land tax, property journals, national, local and technical press as well as other property databases such as Estates Gazette interactive (EGi).

The VOA developed its Valuation Office Ratepayer Contact (VORC) scheme in the run up to the 2005 revaluation which it enhanced for the 2010 revaluation. The scheme is specifically designed to make it easier for ratepayers with large portfolios to provide rental data to the Agency, increasing efficiency and reducing the cost of compliance.

It has been suggested that there should be a wider obligation on occupiers to supply rental information to the VOA without the need for use of Forms of Return (FoRs).

The VOA does not, at present, publish the data it holds due to security constraints. It has been argued however that if this data were to be made publically available it might reduce the number of unnecessary appeals (see 3.4 below - Reducing the number of unnecessary appeals). This would however be at the cost of confidentiality.

Question 15.

How might the current VORC scheme be enhanced?

Question 16.

Should there be a wider obligation on ratepayers to provide the VO with information without the service of a FoR?

Question 17.

Should the VOA publish the rental information that underlies the valuations that appear in rating lists?

3.4 Reducing the number of unnecessary appeals.

A way must be found to reduce the number of “unnecessary” appeals, i.e. appeals that do not result in a change to the rateable value. They incur needless costs and delay the progress of “justified” appeals.

Whilst this statement is true, and the need remains pressing, it hides the significant progress in reducing appeals achieved since the first revaluation in 1990. We

understand that the total number of appeals lodged over recent revaluations were 850,000 during the 2000 rating list; 385,000 during the 2005 rating list; and 180,000 to date for the 2010 rating list. This reduction comes about in part because of the increasing professionalism of the VOA and the accuracy of its compiled lists (see 1.1 above – Background to Revaluations) and in part because both ratepayers and agents have accepted the futility of making totally abortive appeals.

Two issues arise: (a) should there be a cost or penalty for making an appeal that does not result in any change in rateable value and (b) if more information was made publicly available about the rental evidence that underlies rateable values, would that result in fewer appeals?

On (a) the issue is primarily one of fairness and expedience; is it fair to introduce a “fee” for making an appeal, albeit one that is recovered if the appeal is successful? Would the additional administration costs be justified?

On (b) the issue revolves around data confidentiality. The VOA has made a great effort to publish most of the back ground data it used to prepare the 2010 revaluation assessments. The floor areas of most hereditaments are available on its website, as are the values it has used to assess each of these areas, as well as the basic scheme of valuation used for the particular group of properties valued on the same basis. Crucially however it does not publish the rental data from which the scheme has evolved. This information only comes to light during negotiations in the lead up to a Valuation Tribunal (VT). It follows that if a ratepayer or his agent has information which indicates that the VO has over assessed a hereditament the only way he can ascertain what evidence the VO holds which supports (or otherwise) the assessment, is to lodge a protective appeal.

The release of this evidence by the VOA at the time as it publishes the draft lists should reduce the need to lodge “protective appeals”.

The property world is evolving very quickly with the publication on the Worldwide Web of a number of proprietary data bases including EGi. These data bases are becoming more comprehensive, powerful and interactive and it is likely that most of the information held by the VOA will in future be available in an easily accessible format on these databases. It follows that the agents will easily be able to establish “prima facie” grounds for an appeal and that the VO will have to respond by revealing his evidence in advance of a VT hearing. It would be far simpler, less costly whilst significantly reducing the number of unnecessary appeals if this information was made available initially. There is no doubt that publication by the VOA on its website of its rental data would produce greater transparency.

The rental information on which the VO should be relying in preparation of a rating list is that which was available at the AVD which is set two years in advance of the revaluation. It follows that if the rental evidence used by the VO were to be released

with the draft lists it would be at least eighteen months out of date at the time of publication and even more so once the list became live.

Question 18.

Would businesses welcome publication of their rental transactions albeit that this information would be at least eighteen months out of date at the time of release?

3.5 Greater use of correct Post Codes or other Unique Property Reference Numbers (UPRN).

One of the difficulties which the VOA and ratepayers face is the inconsistent use of addresses. It is not unknown for a ratepayer to think of his premises as his Penzance factory, whilst the VOA knows it as George Smith, Penzance Industrial Estate and Royal Mail as 42 Robert Stephenson Road, Penzance Industrial Estate.

The property market is advancing very quickly and OSCRA standards (previously PISCES) are becoming internationally accepted.

Question 19.

Would the NRF welcome the adoption of these protocols to further reduce the cost of compliance?

3.6 Standard and electronically readable rate demands.

There is a need to ensure consistency in the rate collection process.

The current cost to ratepayers with major property portfolios of checking rate demands is significant, but necessary since a recent study of demand notices by the IRRV showed that 66% contained potential billing errors, some of which were so serious that, if challenged, the bill would be unenforceable.

The technology exists to enable rate demands to both be sent electronically and read and checked using bar codes. Many businesses would prefer this approach. It would be possible to require all rate demands to be laid out in a similar way irrespective of which BA sent them.

Question 20.

Does the NRF consider that electronic rate demands in a standard form should be adopted?

3.7 Self-assessment.

Rating is based on assessments prepared by the VOA. Most other taxes are based, to some extent at least, on self-assessment. There is no reason why the assessment of property should only be carried out by the VOA. Individual ratepayers could be responsible for assessing their own property, with the VOA having a similar role to that of HM Revenue & Customs (HMRC) in checking veracity. This would save significant cost on the part of the VOA, although it could be argued that it is unfair to “shift” this cost to ratepayers, many of whom may not be able to value their own properties accurately or be willing to engage professional advisors to assist them. This problem could be overcome by only introducing self-assessment in the rating context to large or complex properties. This would generally mirror the arrangements in the income tax world. Current arrangements could continue for those whose liability is low and whose assessments are simple unless they chose to opt into self-assessment.

Question 21.

Does the NRF consider self-assessment should be explored?

3.8 Self-certified measurements.

The VOA measures every non-domestic building: private practice also measures each property. The RICS Code of Measuring Practice, as amended for rating purposes, sets out how a property should be measured. In the case of other UK taxes, the cost of establishing fact falls on the taxpayer; HMRC simply checks the figures provided by the taxpayer as and when appropriate

Of course, not all ratepayers would be able to measure their properties in accordance with the guidelines and may not be willing to engage professional help to assist them. Furthermore, not all properties require to be measured; for example properties valued by reference to their receipts and expenditure. There would also be problems in the measurement of plant and machinery which may detract from this option.

Adoption of broadly the same approach to self-certification as suggested for self-assessment could overcome these difficulties by only introducing self-certified measurements for large or complex properties. Current arrangements could continue for those whose liability is low and whose assessments are simple unless they chose to opt into self-assessment.

Question 22.

Does the NRF think that self-measurement might be an option worth pursuing?

3.9 Tackling the diffused responsibility and variable standards in collection of rates.

To facilitate improvements and standardisation in the collection of rates consideration should be given to transferring the responsibility for rate collection from BAs to HMRC. This could help build public trust in the rating system. The current diffused responsibility for rates (HMT, CLG, VOA, BAs) is a serious problem which is in urgent need of streamlining to provide clear lines of accountability. It has to be recognised that the abilities and professionalism of the rate collection departments of local billing authorities vary markedly. Some are extremely competent whilst others are very poor. Transferring responsibility for collection to HMRC would be counter to the “localism” agenda, however under the current arrangements and the alterations being debated as part of the Local Government Resources Review any improvement in the administration of the rating system will only take place at the speed of the least efficient billing authority. Transferring responsibility to HMRC would enable significant changes to be introduced in line with modern business practice.

HMRC has the experience and ability not only to collect these national taxes but to do so in a consistent manner. Its main responsibility is the tax collection process. Moreover it, it appears to understand the need to introduce modern business practices into the collection process, thus reducing both the administrative burden and cost to ratepayers.

An alternative approach – which may fit more comfortably with the localism agenda and the direction of travel of the Local Government Resource Review – may be to tackle the diffusion of responsibility by concentrating it in the hands of BAs and the VOA. However, unless the national scheme were entirely abandoned, it is difficult to see how HMT and CLG could entirely withdraw from the scene even of a rating system based on local retention.

Question 23.

Does the NRF believe that transferring the responsibility for rate collection to HMRC would be a positive move improving the rate collection experience?

3.11 Transfer responsibility for rating policy from CLG/WAG to HM Treasury.

CLG and WAG are not tax collecting bodies and their focus is primarily on other policy areas.

Rates and council tax are major taxes and must be dealt with professionally. All other major taxes are the responsibility of the Treasury. Indeed most major changes to rating law and practice are now announced by the Chancellor.

Once again this proposal appears contrary to the localism agenda; the logic of which would be to further empower BAs and restrict the activities of CLG/WAG to setting the ground rules. The quality of service provide by the BAs is inconsistent (see 3.7 and 3.10 above – Standard and electronically readable rate demands and tackling the diffused responsibility and variable standards in collection of rates). Not only is it difficult to see how these deficiencies can be addressed under the localism agenda, but the revenue at risk, over £20 billion per annum, is a significant proportion of the

GDP. Transferring responsibility to MH Treasury would assist in achieving ratepayers' expectation that the NDR system is modern, transparent, consistent, responsive, capable of simple audit, and inexpensive to operate.

Question 24.

Does the NRF consider that a change of responsibility for rating policy from CLG/WAG to HMT is desirable?

4.0 Conclusion.

The NRF felt that the NDR system should be modern, transparent, consistent, responsive, capable of simple audit and inexpensive to operate. The Forum believed that as currently constituted the system fails to meet these criteria. It established the NRF working party to "consider a range of matters which might be subject to change within the NDR system."

The working party prepared this report by pulling together ideas which have previously been circulated at NRF meetings and elsewhere. They are no more than ideas for discussion. The subjects covered by this paper raised 24 questions in the minds of the working party, which NRF members may wish to address. We believe that the controversial nature of rating as a tax and the desire by some parties to use it as a lever to achieve change in the way in which as a nation we occupy property may well generate many other questions and comment, which was of course the intention of the NRF when it commissioned this paper.

Some of these ideas, as well as any resulting comment or questions will feed naturally into the current Local Government Resource Review, whilst others, if adopted may need to form part of additional primary or secondary legislation.

The NRF working party has no official status and has only prepared this paper for discussion on behalf of the Forum. The paper itself has no official status, however should any member of the NRF wish to support, criticize, or otherwise comment on this paper, the working party can only recommend that the organisation concerned writes to:

The Local Government Directorate
Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU.