

Provision of information: The current regime and proposed changes

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Check, Challenge, Appeal System

- The CCA system was introduced in April 2017, by amendments to the Non-Domestic Rating (Alteration of Lists and Appeal) (England) Regulations 2009, and has three core stages:
 - The **Check** stage:
 - The **Challenge** stage:
 - The **Appeal** stage

- CCA aimed to address issues with the previous system and provide more timely and efficient outcome.

- Now itself subject to “fundamental review” – final report published with Budget in October 2021.

Current position

- Paragraph 5 of Schedule 9 to the Local Government Finance 1988 (“the 1988 Act”) provides that a VO may serve a notice requesting the owner or occupier of a hereditament to supply information:
 - which is **specified** in the notice; and
 - Which the VO reasonably believes will assist in carrying out his functions under Part III of the 1988 Act.

The person on whom notice is served must supply the information in the form and manner specified in the notice.

Request for Information

- What the VOA might request:
 - Trading receipts for the last three financial years or since the occupation of the premises commenced.
 - Any rent received from letting other parts of the property.
 - Details of any lease or tenancy agreement.
 - Does the rent include trade fixtures and fittings, plant machinery, furniture

'Reasonably believes will assist'

- Is there a limit on what might be requested?
- *Watney Mann Ltd v Langleys* [1966] 1 Q.B. 457: “reasonably required” means “reasonably necessary” not “reasonably demanded”
- *Bournemouth & West Hampshire Water plc v Central Valuation Officer* [2008] RVR 102: request for information relating to repair, maintenance and renewal costs

Penalties for Non-Compliance

- Paragraph 5A of Schedule 9 of the 1988 Act
- Failure to provide the information within 56 days, a £100 penalty.
- VO must then serve penalty notice setting out the £100 penalty and:
 - Further £100 penalty if fail to comply within 21 days of penalty notice; and
 - £20 per day for each day the failure continues
- Penalties under the above are capped at the **higher** of £500 or the rateable value of the hereditament for which the notice was served.

What is changing?

- The Government has set out details proposals for the implementation of more frequent revaluations and other changes to the system. These changes can be divided into three parts:
 - “Duty to Notify”: the provision of information by ratepayers and property owners.
 - Compliance provisions in respect of these information requirements.
 - Changes to the business rates appeal system.

Duty to Notify the VOA

- New legal duty will be created for ratepayers to update the VOA each time circumstances change.
- **Key points:**
 - Duty will apply to the occupier (premises occupied), or owner (if unoccupied).
 - Ratepayers' required to make an annual online declaration.
 - The VOA will retain existing power under paragraph 5 of Schedule 9 to the Local Government Finance Act 1988, which will primarily be used by the VOA to request cost information from properties valued on the contractor's basis.

Provision of Information: What is required?

- Ratepayers will be required to provide:
 - Information about the property characteristics and any changes made to it.
 - Information about the tenancy, including the use of the property.
 - Trade and accounts information (where relevant to the valuation).
 - Costs information (where relevant to the valuation).

Administrative Burden

- Significant administrative and costly burden:
 - 30 days to notify the VOA of any occupation, lease or property change.
 - 30 days to provide cost information following receipt of the request from the VOA.

- It will be important to ensure that Ratepayers:
 - Obtain a full technical survey of your property
 - Summarise the changes made to your building, with their associated costs
 - Compile a file of rent/lease/ownership details, including up to date rental information.

Compliance Provisions

- A new compliance regime will be introduced to ensure ratepayers comply with the new legal duty to notify, to be rolled out after introduction of new duties. It will include:
 - Penalties for non-compliance, including provision of false information as well as failure to comply;
 - Annual confirmation requirement;
 - Entry to the appeals system and new transparency provisions will be conditional on compliance with duties.

Mandatory Provision: Lease Information

- This measure would require all property occupiers to proactively provide their lease details and other supporting information.
- What might be requested?
 - Details regarding turnover, receipts and expenditure.
 - Lease terms, the current rent and what it includes.
 - The dates of rent reviews.
- Mandatory information is a pre-requisite for increased transparency.

Compliance Provisions: Reminders

- Ratepayers may be liable for a penalty for each instance where they fail to notify the VOA of relevant information.
- After, the initial 30 calendar from the notifiable event, if there is no evidence of compliance:
 - Electronic Reminder and warning, 28 days to comply
 - Electronic warning letter, 28 days to comply
 - Duty continues not to be complied with, another electronic warning letter, 28 days to comply
 - Non-compliance, penalty notice issued

Compliance Provisions: Penalties

- **Failing to provide property changes:**
 - Based on 2% of the rateable value change, for lease changes up to £900 plus £60 per day until compliance

- **Providing false information:**
 - 500 plus 3% of the rateable value difference.

Extensions, Reviews, Appeals and Remittances

- Extend timescales: limited circumstances, need compelling reasons such as medical emergency or bereavement.
- Review of penalty decision before moving to the appeal stage.
- VOA will have the discretion to remit in full any penalty imposed for failure to comply or provision of false information, whether or not an appeal has been lodged or tribunal judgment made.

What else is changing?

- The removal of the current “Check” stage.
- The imposition of a three-month window to lodge Challenges
- Increased transparency

'Improvements' to CCA

- The new Duty to Notify requirement would perform the same function, ensuring that property details held are correct and agreed upon before proceeding to Challenge.
- Reduce the window for making Challenges to 3-months from the beginning of the list.
- The aim of reducing the window:
 - Allow the VOA to take a more structured approach to process Challenges.
 - Allow the VOA to group together the Challenges on similar properties
 - Deal with Challenged as joint batches
- In cases where a new occupier takes over a property after the initial 3-month window, the new occupier will still retain the ability to make a Challenge within 3 months of the start of their occupancy.

Greater transparency on valuation

- Increased transparency would be phased in behind the new duties, with more detailed information disclosed at each phase:
 - **Phase 1:** release of improved guidance covering rating principles and class-specific valuation approach, ensuring guidance is accessible and ratepayer-friendly.
 - **Phase 2:** making available fuller analysis of rental evidence used to set an RV for property, such as analysed price per m², and an explanation of how the evidence has been used to arrive at the rateable value.

Aims of the proposed changes

- The package of measures aims to deliver a range of benefits for ratepayers:
 - Ensuring that ratepayers are provided with a more accurate valuation.
 - Delivering greater transparency for ratepayers on their valuation.
 - Making the CCA process simpler and quicker
 - Ensuring the majority of Challenges received can be dealt with within the life of the list.
 - Providing ratepayers with assurance.

Thank you for listening

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