



Department for
Communities and
Local Government

Check, Challenge, Appeal Reforming business rates appeals

Summary of consultation responses



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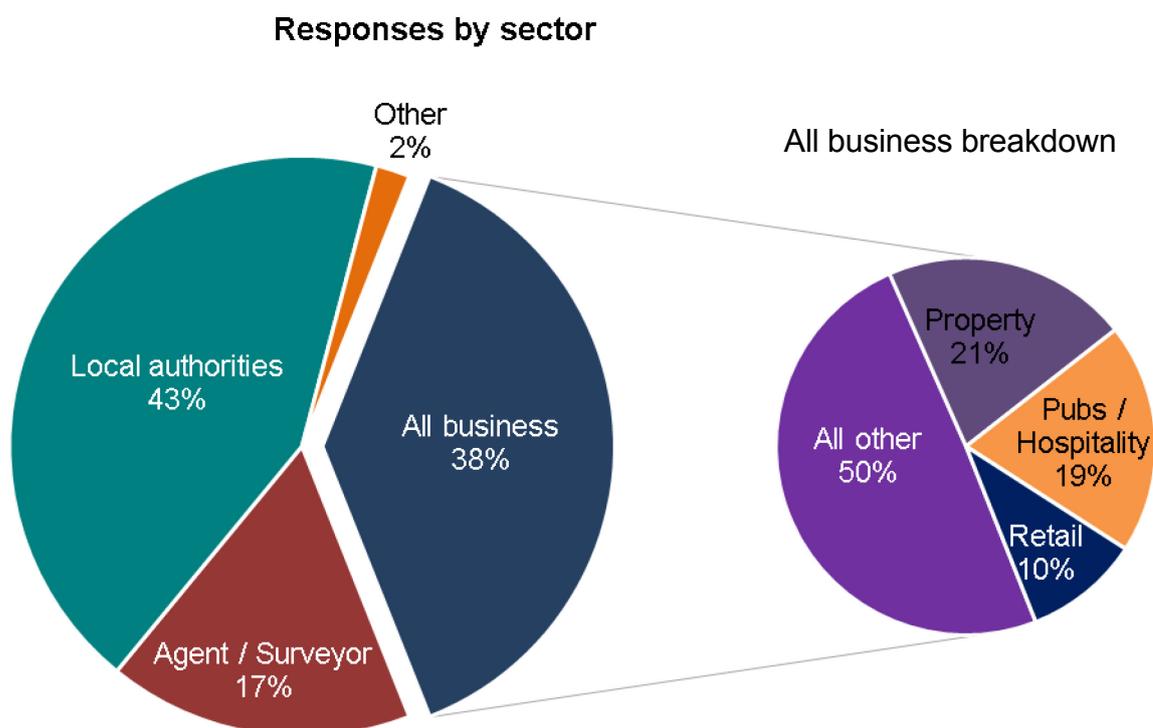
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Introduction

1. On 30 October 2015 the Department for Communities and Local Government (DCLG) published a consultation paper entitled "[Check, challenge, appeal: Reforming business rates appeals](#)". The consultation sought views from businesses, local councils and other interested parties on proposals for a three-stage approach to resolving business rates appeals. Consultation closed on 4 January 2016. As part of the consultation process, six roundtable discussions were held with a range of stakeholders. Comments made in the roundtables were reflected in the responses to this consultation paper.
2. A total of 214 responses to the consultation were received. A breakdown of these responses is shown below.



Of the 82 responses received from businesses, 37 were identical. The figures in this paper consider these responses individually. Included in the 82 were 15 responses from business representative bodies.

3. The Government is grateful for the views shared during the consultation process and has considered all views in developing its policy and the accompanying Government statement. This document sets out a summary of the responses and an outline of decisions made by Government. As a summary, this paper does not attempt to capture every point made in those responses.

Summary of responses

Question 1.

We would welcome views on the overall approach set out in this consultation paper

4. 208 respondents commented on Q1. The great majority of respondents recognised the need for change and were in agreement with the objectives of the business rates reforms. Overall, responses on the proposals showed a clear split between businesses, surveyors and agents, who were mostly sceptical, and local councils, who were mostly supportive.
5. Business representative groups and associations were sceptical for two main reasons: (a) they believe that ratepayers need access to more information earlier in the process in order to understand their assessments, and (b) they do not anticipate that the system will deliver the suggested benefits, for example because of constraints in Valuation Office Agency (VOA) resources.
6. There were widespread calls for the VOA to demonstrate at Check stage what evidence they have used to arrive at a valuation. Many respondents also drew attention to the particular needs of small businesses and called for a faster, simpler approach and exemptions from penalties and fees. Views were expressed that the proposed system would be complex for small businesses and fees could dissuade ratepayers from appealing. A further area of concern was the maximum length of time of the process overall.
7. The majority of local councils supported the proposed system. Many were optimistic that the proposed changes would lead to more transparency and faster resolution, and would dissuade speculative appeals.
8. The Government agrees that there is an urgent need to reform the business rates appeal system by introducing a more straightforward and structured approach, which promotes early engagement between the parties, as a basis for quick resolution of cases. We will design an approach which makes available much more information at an earlier stage in the process than now, while respecting the need to protect taxpayers' information. We will offer reassurance on the speed with which cases will be dealt with and will offer support to small businesses. Further detail is set out below. We will shortly consult further, including on draft regulations.

Question 2.

What are your views on when 'relevant authorities' should be involved in the process?

9. 182 respondents commented on Q2. Responses showed a clear split between local councils who frequently wanted more involvement because they have an interest in the outcome (which will increase under 100% business rates retention), and other respondents, who wanted less local council involvement, because they saw this as a matter between the tax assessor and the taxpayer.

10. Of those who considered relevant authorities should be involved throughout the three stages, the majority were local councils. The extent of this involvement varied between respondents, from billing authorities being informed when every Check is submitted in their area, to an ability to 'opt in' to the process for high value rateable value properties.
11. A smaller proportion of respondents suggested that relevant authorities should be involved from the Challenge stage onwards. Again, the extent of this involvement varied between respondents but a common view was that this should be limited to cases where a significant reduction was at stake.
12. A few respondents considered relevant authorities should only be involved from the Appeal stage.
13. The Government will bring forward proposals for the role of local councils as part of the planned further consultation.

Question 3.

Civil penalties for the provision of false information - we will consult further on the detail of these penalties, but in the meantime, would welcome general views on implementation and the likely disincentive effect of this measure.

14. 191 respondents commented on Q3. Of those who clearly expressed a view, more than half supported civil penalties for providing false information. Many of these respondents were local councils, with a smaller proportion of businesses.
15. Those responses which expressed concerns focussed on three main areas:
 - i. civil penalties could be counter-productive and encourage ratepayers to withhold potentially useful information to avoid the risk of being charged a civil penalty
 - ii. measuring property accurately and completing the required VOA forms can be complicated and the risk of civil penalties may deter small business from entering the system
 - iii. small businesses might feel they need to incur the costs of professional advice to avoid the risk of incurring a penalty through making an accidental error.
16. Supportive respondents believed that civil penalties could deter speculative appeals. Several respondents suggested that a penalty could be more effective if it were linked to the rateable value in dispute, as this would be a more effective disincentive for large businesses submitting unsubstantiated appeals while not disproportionately deterring small businesses from making legitimate appeals.
17. Supportive respondents cautioned that it would be necessary to be careful in defining the circumstances in which civil penalties could be imposed and enforced. Some made the point that there would need to be clear guidance about the detail required to prevent error or confusion.

18. The Government is committed to a modern, efficient and transparent appeals system which serves businesses better. In line with other parts of the tax system, this includes the proper use of penalties for providing false information. The maximum level of penalties will be £500 for the provision of false information “carelessly, recklessly or knowingly”, with a right of appeal to the Valuation Tribunal for England (VTE). However, we will propose lower penalties for small businesses. There will be clear guidance for VOA officials in applying penalties.

Question 4.

We will bring forward end-of-list proposals in due course, but in the meantime would welcome general views.

19. 153 respondents commented on Q4. A large number of businesses agreed that ratepayers should be able to view and confirm their information at any time, regardless of the proximity to the end of the list. Many also stated that Check, Challenge, Appeal should only be used for appeals against the 2017 rating list, with outstanding 2010 appeals treated as they are at present.
20. Most professional representatives and surveyors stated that ratepayers must be able to appeal at any point regardless of the proximity to the end of the list. Respondents noted that imposing restrictions would result in more appeals being made earlier in the revaluation cycle.
21. A large number of local councils supported a cut-off date for appeals with suggestions typically varying between 6 and 36 months before the end of the rating list. Councils noted that appeals after the end of the list should only be accepted in very limited circumstances, reducing the uncertainty of the current end-of-list arrangements. Additional suggestions included limiting the backdating of appeals to the beginning of the financial year or event; and limiting appeals to a certain timeframe at the beginning of the list, for example, 6, 9 or 24 months (excluding cases where there has been a Material Change of Circumstances).
22. The Government will consider how best to implement end-of-list arrangements taking into account the comments made during consultation.

Question 5.

What arrangements should apply to temporary Material Change of Circumstances cases under the new system?

23. 170 respondents commented on Q5. A number of businesses viewed the proposed process as unsuited for temporary Material Change of Circumstances (MCC) cases. Many respondents thought that if the Challenge stage required a fully reasoned and evidenced valuation to be provided, this would often not be possible until the temporary MCC event had ended. Suggested alternatives varied between respondents, but many proposed that either:
- i. there should be no requirement to provide a full valuation with evidence at the outset of the Challenge stage, or

- ii. that the existing process should be adapted for MCC cases.
- 24. Many professional representatives and surveyors argued that it can be difficult to determine the effect of an MCC until after the event and suggested the “material day” should be the date the Check is submitted or the date the circumstances giving rise to the Challenge first occurred.
- 25. Responses from local councils varied significantly. A large number stated that the “material day” should be the date the Check is submitted, which aligns most closely with the arrangements in place currently. Others thought the “material day” should be the actual date of change, which would also allow time for appellants to appoint professional representatives if they wish.
- 26. The Government will consider further how best to implement MCC arrangements taking into account the comments made during consultation.

Question 6.

What are your views on the trigger point for Check stage?

- 27. 178 respondents commented on Q6. The majority of both local councils and businesses considered that the proposed trigger point of 12 months was too long.
- 28. Of those who felt the trigger point was too long, many suggested that between three and nine months would be suitable for the majority of cases with 12 months only necessary for more complex cases.
- 29. A large number of respondents agreed that there should be an opportunity for the VOA and ratepayer to agree to extend the Check stage.
- 30. The Government recognises that the 12 months trigger point for Check has been interpreted in a different way than intended. The purpose of the trigger point is to provide an important safeguard to enable a ratepayer to move to the Challenge stage in the small minority of cases which cannot be resolved quickly, and where an extended timescale has not been agreed. In the great majority of cases, ratepayers will, if they wish, be able to proceed sooner in cases where the facts are agreed or differences are established. Therefore, the Government will maintain the statutory right for a ratepayer to move to Challenge after 12 months even if the Check stage is not complete.

Question 7.

What are your views on the time limit for submission of a complete Challenge, following Check stage?

- 31. 181 respondents commented on Q7 with more than half commenting that the four month period was broadly correct and would allow the ratepayer adequate time to decide whether to proceed to the Challenge stage.

32. A smaller number of respondents, the majority of which were local councils, commented that the four month period was too long.
33. A number of respondents who commented that four months was too short felt that ratepayers would need longer to gather the information required before proceeding to Challenge. The suggested time required varied between responses but a recurring response was no less than 12 months.
34. A number of respondents made the point that the appropriate length of time would depend partly on the Challenge requirements and the provision of information at Check stage.
35. The Government has concluded that four months is a reasonable time limit for submission of a Challenge following the Check stage.

Question 8.

What are your views on the trigger point for Challenge stage?

36. 180 respondents commented on Q8. The majority suggested that the 18 month trigger point was too long.
37. Many respondents commented that a 12 month trigger point would be more appropriate, which could be extended by agreement between the ratepayer and VOA.
38. A few respondents commented that the 18 month period was broadly correct and allows the ratepayer and VOA time to discuss more complex cases, with an extension agreed where necessary.
39. The Government recognises that the 18 months trigger point for the Challenge stage has been interpreted in a different way than intended. This is not a time limit or a target for resolving cases, but an important protection for a ratepayer to move to Appeal in the small minority of cases where the VOA might not have completed consideration of the issues, and where an extended timescale has not been agreed. The great majority of cases are expected to be resolved well before this point. Therefore, the Government will maintain the statutory right for a ratepayer to move to Appeal after 18 months even if the Challenge stage is not complete.

Question 9.

Do you agree that these requirements for a Challenge are the best way to ensure early engagement on the key issues?

40. 192 respondents commented on Q9. Businesses and other respondents expressed concern, because they believe that without evidence and information from the VOA at Check stage they may have difficulty providing supporting information at Challenge stage. Local councils were mostly supportive.

41. Many respondents expressed concern that the proposals give no assurance that the VOA will be more transparent and provide more information at an early stage in the process.
42. Many respondents felt that the evidence required for a Challenge would be a barrier to ratepayers putting forward alternative valuations without a professional representative, and this could deter appeals.
43. Supportive respondents broadly agreed, provided the requirements for a Challenge were clear, with the appellant having all relevant information at their disposal, and this would in turn ensure greater transparency from the VOA.
44. The Government shares the view of respondents that the availability of sufficient, tailored information, earlier than under the current system, will provide the basis for early and meaningful engagement between the VOA and ratepayers. This is the key to resolving cases in a more efficient manner and is at the heart of the package of incentives and requirements in these reforms. We continue to take the view that ratepayers should initiate a Challenge by providing details about why it is being made, in order that the issues under dispute can be established early on. This will allow the VOA to respond with a tailored package of information and allow the VOA (and ultimately the Valuation Tribunal for England) to deploy its resources more efficiently than it is able to do at present. This is central to an improved service for businesses. The Government considers this can be achieved without imposing unrealistic burdens on ratepayers, including those who may be small businesses or unrepresented. Guidance will be available to support small or unrepresented businesses.

Question 10.

Do you agree that this process allows the ratepayers to make their case in a fair and effective way?

45. 192 respondents commented on Q10. Businesses and others expressed concerns that it was unfair to require the ratepayer to prepare a Challenge without access to the full information on which the original assessment was based.
46. They also expressed concerns about how the Challenge process would operate in practice, particularly given proposed VOA discretion on when the ratepayer needs to respond, when discussions have come to an end, and whether new evidence should be admitted (particularly in the light of the proposed restriction of evidence at Appeal stage). Respondents also expressed concerns about potential costs, burdens and proportionality.
47. Most of the respondents who were supportive of the process were local councils. A common theme was that guidance should be made available at an early stage to assist ratepayers who decide not to appoint a professional representative and may not be familiar with the appeal process.
48. Government is of the view that the process set out in the consultation document allows the ratepayers to make their case in a fair and effective way.

Businesses have asked for early engagement between the parties to resolve appeals and the new process allows for that. For the first time, under the reformed system there will be clear expectations on all sides about timescales, requirements and actions. This is a balanced approach which will improve the service provided to businesses.

Question 11.

What are your views on whether straightforward appeals could be determined on the papers, without the need for a hearing?

49. 185 respondents commented on Q11, with a large majority supportive. Respondents felt that straightforward appeals could be decided on the papers without the need for an oral hearing, provided that this was agreed by both the ratepayer and the VOA, and that the ratepayer retained their right to an oral hearing if they wished.
50. The Government has decided to make provision for appeals to be determined on the papers, provided that all parties have agreed to this.

Question 12.

What are your views on the time limit for submission of an Appeal, following Challenge stage?

51. 171 respondents commented on Q12. The majority of respondents thought that the proposed four month time limit for submission of an appeal was appropriate. Local councils had mixed views, with some believing this was a reasonable timescale and others taking the view that it was too long.
52. Respondents who felt that four months was too long considered that the decision to appeal was one that could be made quickly, for example within three months.
53. A few respondents suggested that the four month period was too short and appellants should be given more time to decide whether to appeal.
54. The Government has decided to make provision for a four month time limit for submission of an Appeal following Challenge.

Question 13.

How should we best ensure that the Appeal stage focuses on outstanding issues and, as far as possible, is based on evidence previously considered at Challenge stage?

55. 179 respondents commented on Q13. Businesses generally expressed the view the success of the end-to-end process relies on appropriate engagement, transparency of evidence and robust decisions during the Check and Challenge stages. A number of businesses expressed concern about 'artificial restrictions' that would prevent the Valuation Tribunal for England from considering all relevant information at Appeal.

56. Responses from professional representatives and surveyors broadly argued that the Valuation Tribunal for England should have access to all available evidence.
57. Local councils expressed varied views, with many agreeing that no new evidence should be introduced at Appeal, other than in exceptional circumstances and by agreement between the ratepayer and the VOA. Other responses argued that facts agreed at Challenge should not be re-considered at Appeal, it must be clear that no new evidence is allowed after Challenge, and that the Valuation Tribunal for England should have the final say on whether new evidence is allowed at Appeal.
58. A few local councils commented that if the aim of the process was to come to the correct valuation, then they would be concerned if no new evidence was allowed.
59. The Government has decided to place restrictions on the introduction of new evidence at Appeal stage. This will encourage full disclosure and examination of the arguments at Challenge stage, prompt early resolution, and ensure both parties have time to consider the other's evidence before any Appeal stage. It will also ensure that only those cases on which there are still matters of dispute reach VTE and in good order. This is not intended to be an outright ban and we have identified exceptional circumstances in which we think it could be appropriate to introduce new evidence. But the early statement of issues and early exchange of evidence means this should rarely be necessary.

Question 14.

We will consult further on the details of these fees, but in the meantime, would welcome general views on implementation.

60. 192 respondents commented on Q14. The majority were supportive of a fee for ratepayers appealing to the Valuation Tribunal for England, which would be refunded if the appellant was successful. The views of businesses and other respondents were more mixed than those of local councils.
61. Those respondents who expressed concerns about introducing fees, of which the majority were agents, surveyors and businesses, commented that ratepayers should not have to pay fees to ensure they are paying the correct tax. It was also suggested that the fee would result in negligible revenue but will prove to be an administrative burden on both the Tribunal and ratepayer.
62. Many respondents commented that it would be inappropriate to charge a fee if the VOA failed to issue a decision notice within the 18 month Challenge period.
63. A number of other respondents suggested that the fee should be linked to rateable value. A number of local councils suggested that a flat rate fee may deter small businesses from appealing.
64. Fees are an important part of the reform programme, which will increase the incentives for early and full engagement. They will also help to reduce the

large number of speculative appeals which clog up the system for everyone else. There will be no charges at Check or Challenge stage, where it is our expectation that the majority of cases will be resolved. We plan to propose appeal fees of up to £300, with lower levels for small businesses, and there will be refunds where appeals are successful. No fees will be payable where the VOA has not issued a decision letter.

Question 15.

We would welcome general views on whether changes to appeals to the Upper Tribunal (Lands Chamber) would be beneficial.

65. 168 respondents commented on Q15. There were mixed views on whether onward appeals to the Upper Tribunal should be restricted to points of law, and whether a direct route for complex cases should be considered.
66. Local councils expressed the view that changes to the Upper Tribunal would be beneficial if they reduced the time period for resolution of business rates appeals. Respondents that did not support this change noted that the Valuation Tribunal for England is a lay tribunal, whose members are not professionally qualified. They considered that restricting appeals to points of law, rather than valuation assessments, would therefore be unreasonable and a *de novo* tribunal should remain in place.
67. A common concern among respondents in favour of change was that the current Upper Tribunal appeals system allows both the appellant and VOA to 're-run' their case, with new evidence, which could undermine the principles behind 'Check, Challenge, Appeal'.
68. Some respondents also considered that a direct route to the Upper Tribunal for complex cases should be considered.
69. The Government will keep under review the interface with the Upper Tribunal, in the light of experience in implementing the proposed package of reforms to the business rates appeals process.