1. Does the proposed package of measures represent a fair and balanced trade-off for ratepayers between new benefits and new requirements? If not, please detail what adjustments you would like to see, to ensure a balanced package of measures that would support a 3-yearly cycle while taking account of deliverability constraints. (2000 words)

In The Wealth of Nations (1776), Adam Smith argued that taxation should follow the four principles of fairness, certainty, convenience and efficiency. These principles still form a sound basis for taxation today and while the proposed measures seek an improvement in certainty and efficiency for Local and Central Government, they do so to the detriment of fairness, convenience and efficiency for the taxpayer.

The primary benefit of a 3-yearly revaluation cycle is a more responsive system that will react and change in line with property market fluctuations but the requirements are onerous for ratepayers and for many businesses will be hard to adhere to. The primary issues of concern that require addressing are considered to be;

1) Duty to Notify provision

If a mandatory requirement is introduced for rateable occupiers to notify the VOA of changes to the occupier, or changes to relevant property characteristics this would need to be designed so as to not be too burdensome and expensive for them to administer. We believe that ratepayers;

- Should not be required to audit and correct any historic errors and failures on the part of the Valuation Office Agency.
- Should not be required to provide details of changes without prompting and should only be required to notify changes as part of an annual return.
- Should have the VOA's plans and area calculations made freely available to assist them.

Current legislation protects businesses from the VOA's own omissions or mistakes by restricting the date of rateable value increases to date of schedule where it relates to a correction to an inaccuracy in the compiled list. Similar provisions should be retained concerning existing VOA errors and there should be no requirement for ratepayers to identify where these may lie and correct them.

Far from imposing a low burden on firms (as stated at 2.11), the proposals would be excessively time consuming and very costly process for businesses. There is much that a lay person would not be knowledgeable or skilled enough to comment on themselves and they would require professional advice to meet such a requirement. This comes at a cost.

In respect of the measurement & calculation of floor areas, equipment such as a laser tape measure would be required and access to satellite mapping and measurement tools would be needed for many properties. This is in addition to possessing a good understanding of the RICS Code of Measuring Practice.

The Plant and Machinery Order defining rateable plant and machinery and quantification of its rateable value is unintelligible to the layperson and represents a serious impediment to the adoption of self-assessment, as so situations where properties are assessed by reference to depreciated replacement cost or income. The assumption that the ratepayer will be capable of reviewing and conversing with the VOA in respect of properties assessed by reference to this methodology is naïve.

The complexities mean that the proposals are not be feasible without appointing agents. Professional costs and time required in meeting any such duty would be untenable for those business with complex specialist properties that comprise multiple line entries (universities, chemical works, power plants, etc) or for those with multiple premises (self-storage lockup units, advertising rights, telecommunications, etc). Such a requirement would also be impossible in respect of many valuations where cross-referencing the VOA's valuation against what is physically there is simply not possible.

In view of the above, any **annual confirmation return** (2.12) should only relate to physical changes to a property over the course of each year. With no requirement to audit the existing VOA valuation and elements of a valuation that should remain unaffected by a lack of physical change.

By notifying the VOA of changes by way of the annual return this also addresses the proposal at 2.7, '*that details of changes would be required to be made reasonably soon after the relevant change'*. To introduce a requirement to notify of changes over a shorter timescale is overly demanding and any such requirement cannot be expected to be met by ratepayers without prompting. The assumption that a ratepayer can define a material change and identify the need to alert the VOA is unrealistic.

Owing to the fact some valuations would still contain historic factual errors, there would be a need to address these with a declaration as part of the Challenge stage relating to the factual elements of the valuation. If there were any remaining factual inaccuracies they would form part of the Challenge.

Proposals relating to improved transparency are made at 2.51 and if the burden is to be shifted to the extent proposed for businesses to provide confirmation that VOA survey data is correct it would require full transparency in regards to the VOA's existing records of physical attributes, site notes, plans and area calculations held.

Convenience relates to the ease of compliance for the taxpayers, i.e. 'how simple is the process for collecting or paying taxes' and the present proposals will be virtually impossible for taxpayers to comply with.

2) Challenge Window

We understand the need to reduce the number of Challenges outstanding at the end of a Rating List. Challenges and Appeals spanning multiple Lists on a property are not desirable giving rise to uncertainty for the ratepayer and the Government.

However, we are ardently opposed to introducing a 3-month window for compiled list Challenges to be submitted. Such a window is far too short to provide businesses with sufficient time to collate, review and analyse evidence, draw up schedules and provide comprehensive explanation and reasoning in relation to its application for a hereditament. This is particular true in respect of those businesses with large portfolios, who would simply be unable to complete a full review of all of their properties and errors would undoubtedly remain in a number of valuations as a consequence, with the ratepayer being deprived of the ability to correct these or have the opportunity to discuss these at a later date.

While feedback may indicate that '*3 months provides ratepayers with sufficient time to consider their rateable value and whether they would like to submit a Challenge*' (2.39), it does not provide them with sufficient time to actually submit the Challenge.

The onerous requirements in relation to creation of an account, claiming properties and submission of detailed grounds, evidence and argument upfront, with restrictions on the introduction of new evidence at a later date make this an impossibility. In the capacity of agents, advising a wide variety of businesses we can confirm that it takes on average one day to inspect a property, compile and submit a Challenge.

Advisors are not resourced in order to provide adequate advice to ratepayers in the scenario proposed and a 3-month window would unequivocally restrict the ability of businesses to contest their assessments and obtain a fair valuation.

In place of the current proposals, a minimum period of 18 moths is considered more reasonable; this being the same amount of time the VOA presently have to consider and respond to a Challenge.

At 2.41 it is proposed that a 2 year and 9-month deadline would apply for the disposal of appeals by the VOA. This is excessive and entirely disproportionate to the proposed 3-month window for service of Challenges. If the Check stage is removed, then it follows that the entire process for the VOA should be shortened by 12 months. The VOA presently have 18 months to dispose of a Challenge and this should be retained. If the ratepayer's window to Challenge was also set at 18 months, these would be proportionate and equitable to both parties.

The VOA have access to resources and information that far outweigh those of businesses and this information will be further improved by some of the information that will be collected via annual returns. This means that they are well placed to consider and provide decisions in respect of Challenges quickly and, combined with the fact it is envisaged that '*the majority of Challenges are expected to be cleared in good time'* (2.41), an 18-month response period would still mean that Challenges will be resolved and cleared before the end of a three year List.

3) Challenge Fee

The suggestion of introducing a Challenge fee to deter speculative or insubstantial Challenges (2.46) is considered an affront to taxpayers' rights and should be removed from any proposals.

It is well established and accepted that valuation is an art and not a science, so a ratepayer can rarely have certainty that their Challenge will succeed. A fee will simply act as a deterrent in a number of instances, especially where a business is struggling and does not wish to part with money but for whom a reduction in rateable value will benefit them the most.

A Challenge fee would serve as a barrier to businesses obtaining a fair and accurate valuation and, alongside the subsequent proposals for a fee for transparency requests, this would become a pay for access system. It would produce a system whereby companies would have to pay for the privilege of discussing how they have been taxed and there is no place for this as part of an evolved taxation system in a first world country.

Combined with the existing fee for Appeals to the VTS, consideration would cease to be given to any marginal matters and small errors would largely go unresolved, failing any desire for accuracy or fairness.

Since the introduction of fees by the Valuation Tribunal, the number of appeals being heard by the VTS has dropped significantly. Ignoring those appeals that have been withdrawn or dismissed as a consequence of the fact 2010 List proposals were automatically transmitted to them, it may be noted that in the 2010 List the VTS provided full reasons in respect of some 5,565 appeals over the period 1 April 2010 to 31 March 2014, while over the same 4 year period from the 2017 List commencement, the VTS have only heard 666 Appeals; a reduction of nearly 90%. These are cases where the ratepayer has a genuine aggrievement given they have sought to present a case and the drop in hearings follows the introduction of fees and the burdensome front-end registration system that has been put in place.

Speculative or insubstantial Challenges are considered to be few and far between owing to the requirement to provide full evidence and reasons at the Challenge stage in order to succeed.

Ignoring spikes attributable to the exceptional event in relation to the Covid-19 pandemic, Checks had been running at approximately 5,000 per month (60,000 per year) and this sits against an average number of proposals of 140,000 per year in the 2010 List. Challenges meanwhile had been running at approximately 2,000 per month (24,000 per year) and, at 17% of the level of proposals received in the 2010 List, it is apparent that the issue of speculative appeals has largely been removed.

Undoubtedly there will be a minority of organisations that will submit insubstantial cases but the nature of the Challenge system means that if spurious and unsubstantiated Challenges are lodged then they will be unlikely to succeed, be a waste off the Appellant's time (which is deterrent in itself) and be easy to dispose of by the VOA.

Closing Comments

VOA statistics state that as at 31 March 2021 they have approved 557,810 property claims and this represents just over a quarter of the 2 million rateable properties in England. The fact that around three quarters of assessments had still not been claimed and that the VOA's online service still states "BETA – This is a new service" some 4 and a half years after its introduction go to illustrate some of the existing issues with adoption and functionality.

Significant further changes will only generate additional barriers to business and erode taxpayer's rights. Any changes need to be gradual, provide fair timescales / windows to Challenge and impose as small an additional burden on the ratepayer as possible without barriers to access such as the introduction of fees.

2. What steps could be taken to support ratepayers to comply with the new duties? For example, elements to reflect in the design of the reporting portal, or content that would be helpful to include in the supporting guidance. (500 words)

While acknowledging that data protection is of the utmost importance, the current registration process involving the requirement for individuals to provide personal details when undertaking registration on behalf of their employers is onerous and unreasonable. The portal should be further developed to avoid the requirement for personal information.

3. Are you supportive of the proposed approach to Transparency? Are there further elements you think should be made available as part of a Transparency offer? (500 words)

We are supportive of proposals to improve transparency. The introduction of the VOA online service, use only of central email addresses and a central switchboard fielding all phone calls has resulted in an impersonal, faceless system that is difficult to navigate and produces responses from unskilled staff at the VOA that are often incomprehensible or incorrect. Any improvements to this are welcome.

We have received incorrect information and guidance on a number of occasions from the main CCA inbox in respect of matters such as effective dates linked to Challenges, details for Transitional Certificate appeals and Plant & Machinery valuations. Considerable investment is required in the training of central switchboard and email support staff if better transparency and guidance is to be provided.

It should be noted that Phase 1 relating to guidance concerning rating principles and class valuation approach already exists in the VOA Rating Manual which is available online, the upskilling of staff should be of higher priority to provide a more transparent and navigable service.

In relation to Phase 2 and the availability of rental evidence, this is considered positive evolution of the system that would provide ratepayers reassurance over how their valuation has been arrived at and would reduce the number of Challenges owing to the fact they would be able to see it is supported. The issuing of a Regulation 17 Certificate or, prior to this, simply a schedule of rental evidence by the VOA often results in the resolution of appeals shortly after, given the Appellant can then (and only then) properly see the rationale behind the level of value applied.

We would however be strongly opposed to the introduction of a fee for transparency requests (2.52). While there may be a need to limit the number of these from an administrative point of view, to require a payment would not be in the interests of transparency, fairness and equality. Those businesses with deeper pockets would stand to have an advantage and a fee would be a barrier to many ratepayers simply wishing to gain a better understanding of how their rateable value has been arrived at and a deterrent to them in ensuring it is correct.

Other matters that should be made available in an attempt to improve transparency are:

- Improved availability of Plant & Machinery valuations on the VOA portal prior to Challenge.
- The VOA's floor plans and area calculations, should an annual confirmation return be brought in requiring these to be confirmed.
- Where matters proceed to Appeal stage there should be improved availability of 'Forms of Return' / 'Requests for Rent, Lease and Ownership Details' relating to evidence advanced. This should be available for inspection via an online viewing portal.

4 What steps could the Government, stakeholders, or industry take to support a smooth move to a 3-yearly cycle? (1000 words)

No comment.

5. Do you have any other comments on the proposed approach to the move to a 3-yearly cycle? (1000 words)

We consider the move to a 3-yearly Revaluation cycle meaningless without a significant overhaul to transitional phasing provisions or the removal of these altogether. At present these are grossly unfair on ratepayers that have seen the largest reductions in their rateable values, with larger assessments restricted to a reduction in liability of circa 5% per annum. A more responsive Rating system that has more frequent Revaluations should not have the need for transition and, if this was present, significant difficulties would be encountered if liabilities are subject to transition in the final year of a List as this would affect the base liability in the first year of the next List and increase the probability of errors.

In a system where annual returns become a reality, it is important that businesses are protected from the potential of companies defrauding them by offering them unnecessary services or poor advice. There are already in existence a number of ill-qualified companies with onerous Terms and extortionate fees and a move to a 3-eyar cycle should be accompanied with the introduction of a register of agents who are subject to professional regulation by organisations such as the Royal Institution of Chartered Surveyors and who can demonstrate they have a satisfactory IT and data protection systems in order to be accessing ratepayers' information, as well show they have a suitable complaints handling procedure in place.

6. Do you agree that that moving to a three-year cycle should be the Government's priority for this stage of reform, and that going further should remain an option for the future? (1000 words)

Yes, we agree that moving to a three-year cycle should be the priority at present and not striving to further shorten this. Alongside a four-year 2017 List, that has now been stretched to six, a three-year List was promised a number of years ago and received popular support. It should be delivered.

Moving to an even shorter revaluation cycle we do not believe is sustainable and should not form the basis of any policy or proposals. Our reasons for this are provided at question 7, below.

7. Would you support a move to an annual revaluations cycle or a shorter AVD in the future, accompanied by the necessary enabling reforms set out in this chapter? (1000 words)

At present the CCA system typically sees the VOA respond to Challenges within the last 2-3 months of the 18-month deadline. First-hand experience in respect of a number of cases has shown the VOA sometimes make no contact until the final fortnight of the Challenge response window, only to ask that the Challenge deadline is extended. This has replaced an appeal system where VOA caseworkers were tasked with responding within a programmed target date and, regardless of ratepayer engagement early on in the intended discussion period, dialogue was rarely reciprocated until a Statement of Case for Tribunal had been submitted.

The above is not intended to be a criticism but a mere fact which results from continued cuts and consolidation that the VOA have undergone over the last 10 years.

Without significant additional funding to better resource the VOA and changes to internal procedures concerning case allocation and an improvement in staff retention, we do not believe annual revaluations would be sustainable. With a shorter valuation window available to the VOA, we believe it would result in more errors in each List and could result in a position where there are multiple appeals per hereditament that span multiple revaluations. There is a serious risk that the introduction of annual revaluations could result in a partial breakdown of the system giving rise to financial hardship to ratepayers.

This would be a move away from a position of increased certainty for ratepayers and the Government and is not desirable.

Response provided on behalf of Sanderson Weatherall LLP

17th August 2021