

Agenda – Economy, Infrastructure and Skills Committee

Meeting Venue:	For further information contact:
Committee Room 1 – Senedd	Gareth Price
Meeting date: Wednesday, 5 October 2016	Committee Clerk 0300 200 6565
Meeting time: 08.30	SeneddEIS@assembly.wales

Business Breakfast (World of Boats) (08.30 – 09.30)

Private pre-meeting (09.45 – 10.00)

1 Introductions, apologies, substitutions and declarations of interest

2 Business Rates in Wales – expert panel

(10.00–11.15)

(Pages 1 – 33)

David Magor, Chief Executive, Institute of Revenues, Rating and Valuations
Andrew West, Royal Institute of Chartered Surveyors Wales
Matthew Williams, Policy Advisor, Federation of Small Businesses Wales

Attached Documents:

Research brief

EIS(5)–05–16 (p1) Institute of Revenues, Ratings and Valuations

EIS(5)–05–16 (p2) Royal Institute of Chartered Surveyors Wales

EIS(5)–05–16 (p3) Federation of Small Businesses Wales

3 Business Rates in Wales – Ministerial scrutiny

(11.15–12.15)

(Pages 34 – 37)

Mark Drakeford AM, Cabinet Secretary for Finance and Local Government
Debra Carter – Deputy Director, Local Government Finance Policy, Welsh
Government



Joanna Valentine – Head of Local Taxation Policy, Welsh Government

Attached Documents:

EIS(5)–05–16 (p4) Cabinet Secretary for Finance and Local Government

4 Papers to note

4.1 Letter from the Chair of the Economy, Infrastructure and Skills Committee to the Secretary of State for Wales regarding the Wales Bill

(Pages 38 – 47)

Attached Documents:

EIS(5)–05–16 (p5) Letter from the Chair of the Economy, Infrastructure and Skills Committee to the Secretary of State for Wales regarding the Wales Bill

4.2 Letter from the Chair of the Economy Infrastructure and Skills Committee to the Cabinet Secretary for Economy and Infrastructure regarding the rail franchise and metro timeline.

(Pages 48 – 49)

Attached Documents:

EIS(5)–05–16 (p6) Letter from the Chair of the Economy Infrastructure and Skills Committee to the Cabinet Secretary for Economy and Infrastructure regarding the rail franchise and metro timeline

5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting and item 1 of the meeting on 13 October

Private de-brief (12:15 – 12:30)

Agenda Item 2

Document is Restricted

Business Rates Policy in Wales

**An Outline of the Institute of Revenues, Rating and Valuation's (IRRV) Evidence to the Economy, Infrastructure and Skills Committee of the National Assembly for Wales
5th October 2016 from 10.00 – 11.15am**

Business Rate Policy in Wales

Introduction

The IRRV is the professional body concerned with all aspects of local taxation, valuation, appeals, financial management and local benefits administration in the United Kingdom. It has members within both the public and private sectors, including ratepayers and their agents. Institute members are engaged in local taxation collection, property valuation, the appeals process, advising and representing ratepayers and financial management within local government.

We are an Institute that represents the professional interests of members who work within a broad church. The Institute is the only professional body in the United Kingdom which specialises in the law and practice of local authority revenues and local taxation, together with the valuations, appeals, reliefs and benefits which support these processes.

The approach taken to modelling the costs and economic benefits of business rates policy options

The Institute often models the impact of government policy and in recent months has looked critically at the government's proposals for 100% rate retention in England. This modelling approach takes account of the impact of rate liability and its effect on both the ratepayer and local economic conditions. This approach is partially helpful when dealing with issues such as; local discretions, particularly those related to stimulation of the tax base, regeneration and local economic activity.

What should the Welsh Government's priorities for business rates policy be for the Fifth Assembly

The Assembly should move forward on a retention scheme designed specifically for Wales. Whilst the English model can be used as a guide there are some aspects that can be improved particularly the level of discretion and the scheme of equalisation. The Institute supports a number of the recommendations of the Task and Finish Group and these should be given priority particularly

In the 2012 report

Recommendation 2: There is a piece of work needed to be completed in conjunction with the Climate Change Commission, the Welsh Government and Business regarding the issues and needs surrounding sustainability and its impact on NDR.

Recommendation 3: A thorough review of the use of hardship funds by Local Authorities. Currently, the vast majority of Local Authorities do not admit to having a hardship fund, and those who do admit that the chance of receiving a hardship fund is very slim.

Recommendation 4: A thorough review of rates holidays and what the business community needs. Should business rates relief be targeted?

Recommendation 8: Is there a need for a central database for NDR statistics? Is this possible? Research during this report and throughout the Task and Finish Group has highlighted the clear lack of statistics available. This is worrying in terms of policy development and has hindered the Task and Finish group's work in some aspects. Asking each individual Billing Authority in Wales for statistics

appears to be a cumbersome task. A central database could provide the data needed on which to base NDR policy, its impacts and then have the intelligence to target relief/multipliers.

Recommendation 11: Review of the multiplier and its possibilities. Should the multiplier be increased for all businesses, and could this fund a more generous rates relief package? Is this possible or desirable with regards to the devolution settlement? Should the annual link with the RPI change? Data is not currently freely available to research this subject.

In the 2013 report

Recommendation 1: The Task and Finish group reiterates previous recommendations that planning authorities should consider incentives, such as targeted grant funding in preference to NDR relief, in those town centre areas that have suffered significant decline as retail centres. However, in other areas of the town centre, carefully managed NDR relief packages may be created particularly for empty, refurbished and newly built property.

Recommendation 2: The Task and Finish group recommends that local planning authorities should be encouraged to be flexible in the way that 'change of use' consent is granted, to enable and encourage alternative use of vacant and surplus retail space, including temporary 'meanwhile use'.

Recommendation 5: To assist in raising awareness of the role that the Hardship Relief scheme can perform, the Group recommends that clear and consistent guidance notes should be drawn up that reminds local authorities of the criteria by which they may judge an application for relief (based on the points enumerated in paragraph 34 below), and highlights best practice in publicising the relief.

Recommendation 6: The Task and Finish Group has, in previous reports, noted the negative impact that the reduction in EPR relief, introduced in 2008, has had and the avoidance practices that have arisen in its wake. The Group, therefore, recommends consideration should be given to reviewing the existing 100% charge on longer term empty premises.

Using our experience from England, it is important that business ratepayers are given a reasonable lead time in order to take into account of any adjustments in their outgoings. This is particularly important with rate liability because it is regarded by business as the most significant outgoing after all the costs of employment. We would therefore suggest that a lead in time of at least 12 months is essential to give business the opportunity to make these adjustments.

How should the recommendations made by the Business Rates Task and Finish Group and the Business Rates Panel in the last Assembly be prioritised and taken forward

The Institute was actively involved in giving evidence to the Task and Finish Group. We support a number of the recommendations as above

How can business rates be used to drive economic growth, and how should performance be measured against this;

We believe the application of differential tax rates for rate liability would give local authorities and the Welsh Assembly Government the opportunity to introduce innovative approaches to encourage businesses to relocate in Wales. This will be particularly important if it were to be considered alongside any potential changes in the levels of Corporation Tax. This will also give a possible incentive for dealing with the porous nature of the border between England and Wales.

The introduction of retail incentive schemes is an approach that has been used to reverse the decline in high street retail activity. The Institute is not convinced that this approach works and is exploring other options particularly the introduction of internet sales levies and more innovative schemes of State Aid which should be part of the Brexit provisions.

The potential implications of recent changes in English business rates policy for Welsh businesses and the Welsh economy, such as planned changes affecting small businesses such as reliefs and multipliers; more frequent revaluations; proposals for 100% local retention of business rates and for local authorities to be able to set their own business rates multiplier;

The Institute has taken a positive stance on the introduction of business rates retention schemes. There is no doubt in our mind that it has encouraged billing authorities to take a more active role in the administration of the tax which has led to an increase in yield. The localisation mechanism and the potential to retain income have also begun to yield results particularly in relation to the funds available to improve the infrastructure in areas of economic decline such as the traditional high street. The move to 100% retention will generate more activity in the rate tax base however care must be taken to fairly equalise the financial resources.

One of the disadvantages of five yearly revaluations is that where there is a large swing in rental or capital values inter-quinquennium, this is not reflected until the following revaluation. Where rents and costs are increasing, the ratepayer is unlikely to be upset; however, where these values fall, dissatisfaction can arise (notwithstanding provisions relating to material change which may assist in these cases).

We contend that shorter periods between revaluations would be preferred by the majority of ratepayers as this would help to even out some of the changes in levels of value which can occur within the revaluation cycle.

The revaluation cycle has traditionally lent itself to a five-year valuation cycle, due in part to the timescale required to handle large volumes of appeals between revaluations.

It may assist ratepayers to move towards a three-yearly revaluation cycle; possibly as a stepping stone to annual or two-yearly revaluations. We accept however that these changes would probably only be achieved if all leases are supplied as a matter of course to the VOA (direct or via Land Registry). Such a move to more frequent revaluation would generally reduce the number of appeals, keep rateable values more aligned to passing rents and could negate any need for transitional relief schemes.

More frequent revaluations would generally result in a more acceptable change to rate poundage levels; thereby giving rateable occupiers a greater degree of certainty. Three-yearly revaluations could level out the appeal workload for rating surveyors, minimise increases / reductions in revaluation assessments for occupiers and allow the Government and billing authorities a greater degree of certainty of income level.

In the context of non domestic rates the introduction of variable local multipliers in Wales could influence the relocation of business activity from England to Wales. If this is the case it raises the potential for increased revenue as the tax relationship between Wales and the Treasury matures

Your views on taking forward localisation/regionalisation of business rates policy in Wales, particularly in the context of the Cardiff Capital Region City Deal and the proposed deals for Swansea Bay and North Wales;

As previously stated the Institute has taken a positive stance on the introduction of business rates retention schemes. The localisation mechanism has the potential to stimulate growth. The creation of City Deals and Combined Authorities will enable the creation of unique locally based regeneration schemes and could improve the deliver of local services. There is also early evidence of retained income beginning to yield results particularly in relation to the funds available to improve the infrastructure in areas of economic decline such as the traditional high street. However these arrangements must not be at the expense of other local authorities who rely upon the equalisation process to balance the resources generally available to local government.

The potential impact of the revaluation of rateable values currently being conducted by the Valuation Office Agency (VOA) for the Welsh Government.

It is early days. There have been broad indications from the VOA of the movement in value over the various classes of property. My Institute will be carrying out an authority by authority comparative analysis for English local government. This will enable them to adjust provisions for the Retention Scheme and check the Governments adjustment of baselines.

The revaluation also will undoubtedly shift the incidence of liability in Wales. This shift will benefit some and penalise others. Those who see a shift upwards need to be protected. This protection traditionally takes the form of transitional schemes that are either financed by Government or by phasing the gains.

Any other issues you think are particularly relevant.

The condition of the Rating List for Wales

We have carried out a study of the quality of rating lists in England and Scotland which has revealed a significant incidence of missing rateable value. This situation has been fuelled by the “nationalisation” of the non domestic rate in 1990 which led to billing authorities reducing the administrative effort in relation to the maintenance of the rating lists. We believe there is significant missing value in Wales.

The introduction of an incentive scheme to Billing Authorities in England was probably the most significant change to the non domestic rate since its inception in 1990. It introduced two major challenges to Billing Authorities (BAs), firstly it demanded improved budgetary forecasting in an area generally unfamiliar to finance managers, but it also gave financial encouragement to BAs to improve resource commitment to the rating team. In England this incentive has already realised over £50m of missing value

Rates Avoidance

The Institute fully supports the premise that clarification and/or change is required regarding aspects of empty business rating, both in terms of its application and its administration. The Institute also fully supports the Government commitment to “continue to support law abiding ratepayers who are genuinely entitled to the reliefs and exemptions”. This support should apply to all who work by legal means to minimise business rates liability; and by extension it should not include those who adopt practices by which they seek to evade tax liability.

Tax avoidance is, of course, a strategy which involves exploiting legal means of reducing taxes with the goal of minimizing tax liability. Avoidance is a perfectly legal approach to handling taxes. There is a point at which practices of a minority stray into the realm of being abusive; and thereby cross the line into tax evasion. It is important to emphasise however that there is nothing illegal in seeking to minimise that tax liability, either for oneself or on the behalf of others. To state that avoidance places an unfair burden on the “honest majority” could be seen to portray those who seek to minimise liability legitimately as ‘dishonest’ and this is not the case.

It is felt that avoidance is “undermining confidence in the rates system”. It could well be argued that the interaction of the empty property rating system as introduced from 2008, with the now high level of business rates multiplier are also contributory factors to any perceived undermining of confidence in the system.

BRIEFING PAPER FOR THE NATIONAL ASSEMBLY FOR WALES ECONOMY, INFRASTRUCTURE AND SKILLS COMMITTEE, PREPARED BY ANDREW WEST MRICS, IRRV (HONS), RICS WALES

1. What should the Welsh Government's priority for Business Rates Policy be for the Fifth Assembly?

- **Stability; certainty; transparency**
- Where possible reducing the fiscal impact of business rates to the small business community (See Question 2)
- Simplifying existing over complex system of reliefs and exemptions

2. How should the recommendations made by the Business Rates Task and Finish Group and the Business Rates Panel in the last Assembly be prioritised and taken forward?

- Commit to more regular revaluations (3 yearly) in order to reflect businesses ability to pay during periods of economic volatility, and avoid extended periods of hardship.
- Abate annual increases in rate bills by linking the multiplier to CPI, not RPI, and consider a freeze on increases during downturns and recessions.
- Permanently exempt small businesses from business rates using enhanced RV thresholds.
- Exemption of plant and machinery from valuations particularly poignant and effective in Welsh industrial heartlands.

3. How can business rates be used to drive economic growth, and how should performance be measured against this?

- See response to Question 2 above.
- Targeted reliefs and exemptions, eg extension of the Wales Retail Relief Scheme and the New Developments Scheme.
- Creation of jobs and occupation of vacant units are crude but measurable to identify success.

4. The potential implications of recent changes in English business rate policy for Welsh Businesses and the Welsh economy, such as planned changes affecting small businesses like reliefs and multipliers; more frequent revaluations; proposals for 100% local retention of business rates and for local authorities to be able to set their own business rates multiplier?

- If the existing system of 5 yearly revaluations, multiplier linked to RPI and small business relief up to £12,000 RV continues England will enjoy a business friendly reputation and a competitive and marketing advantage which could be material to marginal investment decisions.

- 100% local retention of business rates – pluses and minuses: could cause significant problems for Council's reliant on income from one or two large assessments, eg Tata, Port Talbot!
- Any rate retention scheme should protect and target income for economic growth.
- The multiplier should remain consistent throughout Wales to give business consistency and stability
- Local rates retention should be linked directly to economic development activities.

5. Your views on taking forward localisation/regionalisation of business rates policy in Wales, particularly in the context of the Cardiff Capital Region City Deal and proposed deals for Swansea Bay and North Wales?

- Regionalisation linked to development of city regions which could weaken development initiatives for individual councils but should target income to areas of most need. Regionalisation should encourage a wider, strategic approach.
- Winners and losers
- NB Impact of local government reorganisation?

6. The potential impact of the revaluation of rateable values currently being conducted by the Valuation Office Agency for the Welsh Government?

- The broad impact of the 2017 revaluation should be measurable by this meeting. However, external analysis will be in its early stages.
- It is likely that the Welsh rate pool will fall leading to an increase in the tax rate from 0.486 to 0.500+, a psychological barrier. The increase in the tax rate to 50p+ should come with increased transparency to understand the valuation basis for the assessments behind the tax.
- Transparency is seen as key to the continued creditability and acceptance of a property tax which has been used with us for 400 years.
- Dealing with resultant appeals in a timely fashion has been and should be deliverable in Wales compared with appeal volumes and time lags present in England.

7. Any other issues you think are particularly relevant?

CHECK, CHALLENGE, APPEAL

- Substantial changes to the appeals system in England from 2017 dividing the appeal into 3 distinct phases:

- **Check** – largely administrative confirmation of facts with financial penalties for provision of incorrect information.
- **Challenge** – the substantive phase where the ratepayer will be required to produce a detailed document specifying grounds for appeal and a reasoned justified valuation. If the VOA considers the information provided inadequate the challenge will be returned.
- **Appeal** – to the Valuation Tribunal Service, upon payment of a charge up to £300 with a proposal that the Tribunal will only give a decision if a valuation is outside the bounds of “reasonable professional judgement”.
- It could take 2 years, 10 months to reach the appeal stage.
- It is suggested this system will reduce transparency and increase frustration in the system due to substantial procedural and administrative barriers, penalties and increased time lags: it could take almost 3 years to arrive at the appeal stage.
- Historically, Wales has adopted subtle but distinct differences from England: one multiplier; no transition; no burden of Statement of Case production to the Valuation Tribunal. The system in Wales is generally accepted by stakeholders as an exemplar of good practice for business rates in the UK: annual liability is a simple, understandable calculation with no barriers to communication with the Valuation Office Agency. The result is a much more stable, generally accepted system of local government taxation.
- If we wish to continue as a beacon of good practice for business rates it is strongly recommended that the Welsh Government do not adopt the draconian English Check, Challenge, Appeal proposals which are the subject of concern from many stakeholders including, critically, ratepayer organisations.
- This criticism will increase as we approach the implementation of the new scheme from 1st April 2017.
- In order to maintain a stable tax based and reduce the impact of appeals, the production by the VOA of background information upon which an assessment is based would substantially reduce the need to appeal.
- This could be done through a discreet electronic portal in order to address potential disclosure and confidentiality issues. We suggest a working party is assembled to develop this process which would address many of the concerns which have caused criticism of a system which remains a consistent stable source of income for local government and should continue to do so with these suggested improvements.



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FSB response to Economy, Innovation and Skills Committee Inquiry on Business Rates

21 September 2016

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FSB Wales welcomes the opportunity to present its views to Economy, Innovation and Skills Committee. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Non Domestic Rates have long been a key concern of FSB members, and we have worked closely with some of Wales' leading academics to examine many of the issues raised in this call for evidence. Of particular interest are seminar papers produced for FSB Wales' seminar series by Professor Calvin Jones (on the future role of Local Government)¹ and Professor Gerald Holtham (on Non Domestic Rates)². These papers have informed FSB Wales' thinking, but do not constitute our policy view, which is contained within this submission.

We must also note, that revaluation is currently in progress, with the draft lists due to be published during the course of this inquiry. Key questions regarding the accuracy of revaluation, any particular geographical or regional issues in rating, and the need for transitional relief from April 2017 cannot be answered in absence of the revalued list.

Key Points

FSB Wales has called for a number of changes to the system of business rates in Wales in our manifesto for the incoming 2016 Welsh Government³. Most significantly for the proceedings of this committee we have called for the Welsh Government to do the following:

- Agree a position on the local retention of Business Rates within 100 days.
- Undertake more regular revaluations, to ensure that rates bills are more reflective of economic circumstance and rents. The Welsh Government should look to do this within its first three years.
- Instruct the Valuation Office Agency to value land and property separately. This will allow a more meaningful evaluation of the impact of moving towards a system of Land Value Taxation. This should also be undertaken within the first three years.

¹ Jones, Calvin (2015) [Public Services and Economic Development in Wales](#), FSB Wales Seminar Series

² Holtham, Gerald (2015) [Non-Domestic Rates in Wales](#), FSB Wales Seminar Series

³ Available at: [http://www.fsb.org.uk/policy/rpu/wales/images/the_fsb_wales_business_manifesto_for_the_2016-21_welsh_government%20\(1\).pdf%20final.pdf](http://www.fsb.org.uk/policy/rpu/wales/images/the_fsb_wales_business_manifesto_for_the_2016-21_welsh_government%20(1).pdf%20final.pdf)

- Take forward the recommendations in 'The Devolution of Business Rates to Wales' Report (February 2015)⁴ and undertake a full assessment of alternative options for business rates.
- Split the uniform business rate multiplier in line with the split between small and large multipliers operating in England

FSB Wales has general concerns about the levels of data available for modelling the impacts of business rates in Wales. It has therefore been difficult for us to fully assess the impact of business rates policy changes on our members and the wider economy. Welsh Government and local Government should do more to ensure that good quality data relating to business rates is available to policymakers. In this light, we find it difficult to comment as fully as we would like on potential reforms to Business Rates in Wales. It is our view that the costs and benefits of business rates policy are not fully explored.

It will be essential that any changes to business rates are clearly communicated to Welsh businesses, and that any changes to the system of Business Rates in Wales are phased in clearly and with adequate warning. Whilst some changes, such as local retention could be made relatively quickly (i.e. those which are not 'customer facing'), others may take more time and preparation. Such changes should be consulted on fully, and subject to a full and proper impact assessment, as FSB Wales has outlined in our report "Better Regulation for Wales"⁵.

Non-Domestic Rates are a source of c£1bn a year in revenue for the Welsh Government (and subsequently Local Authorities) and FSB Wales recognises the need to protect this revenue stream, and to grow it in line with economic growth. Indeed business rates' relatively "static" pot, whilst not reflecting business conditions, is a virtue from the point of view of the Government as it provides a predictable and secure stream of revenue.

However, it is our view that the tax currently falls disproportionately on those small businesses with premises, something implicitly recognised by the now year-on-year retention of the Small Business Rates Relief scheme, which should be extended and made permanent.

It is also clear that some Local Authorities substantially benefit from the current "shared pot" whilst other, normally more prosperous Local Authorities effectively lose out. There

⁴ Available at: <http://gov.wales/docs/det/publications/150202-devolution-of-business-rates-en.pdf>

⁵ Available at: <http://www.fsb.org.uk/policy/rpu/wales/images/better%20regulation%20wales.pdf>



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is however, a clear need for some element of redistribution to be preserved in order that Welsh Local Authorities are able to deliver their statutory (and non-statutory) services.

Wales is facing a rapidly ageing population, with high levels of deprivation and poor health, this means the pressures on the social care sector in particular will be high – especially in rural areas. Local Authorities will have to find innovative ways to cope with these pressures in times of tightening budgets, or look to grow their revenue streams. It is particularly important that the role of economic development in delivering healthy and prosperous communities is not forgotten – evidence conclusively shows that more prosperous and economically resilient communities face lower levels of ill health and are better equipped to care for the elderly and infirm.

FSB Wales believes that any local retention of business rates should therefore be accompanied by devolution of some responsibility for economic development. Currently, the lack of a meaningful link between Non-Domestic Rates receipts and the Local Government grant means Local Authorities have little incentive to pursue policies which support local business growth.

FSB Wales called in its manifesto for the 2016 Elections in Wales for Local Authorities to be given a statutory responsibility for Economic Development in Wales, and crucially that funding and staffing for these functions should be devolved from Welsh Government to Local Authorities. We believe this will have a transformational effect in regional regeneration and economic development, and give Local Authorities a greater stake in the economic success of their communities.

On 5th October 2015 the UK Chancellor, George Osborne MP, announced that Local Authorities in England will retain 100% of their business rates, alongside the abolition of the Uniform Multiplier. These announcements will have significant impacts in England and are likely to have cross border implications for the business environment in England and Wales and those businesses which operate on both sides of the border. We await further detail with interest, but it is now even more pressing for Welsh Government to agree a position on the retention (or not) of Business Rates in Wales, and to move ahead with examination of alternative models of taxation.

It appears that Wales and England are on divergent paths with regards to Business Rates, and comments relating to a “long and porous border” are less relevant than they may have been in the past. However, it has historically been true that Wales and England have divergent rates regimes, with England splitting a large and small business rates multiplier where Wales has not.



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The multiplier has also been set at differing levels on either side of the border – in part to reflect differing levels of prosperity. In general, despite a “long and porous border”, Wales and England have rarely, if ever, since 1999 had aligned Business Rates regimes. In this light, over the medium term, the Government should look to examine best practice elsewhere in the UK and globally in order to devise a system of business taxation that works for Wales and its political and social aspirations.

Agenda Item 3

Economy, Infrastructure and Skills Committee, 5 October 2016

Written Evidence Paper about Non-Domestic Rates by the Cabinet Secretary for Finance and Local Government

1. Introduction

- 1.1 The purpose of this paper is to assist the Economy, Infrastructure and Skills Committee with its scrutiny session on Non-Domestic Rates (NDR).
- 1.2 While this paper seeks to address the areas identified by the committee as being of particular interest for this scrutiny session, timings unfortunately hamper this as the 2017 Draft Rating List will not be published by the Valuation Office Agency (VOA) until 30 September 2016. Furthermore, the UK Government frequently uses the Autumn Statement to announce NDR policies which often have implications for Wales. As such, I felt it would be helpful to set out my priorities for short-term improvements and ambitions for longer-term reforms.

2. Background

- 2.1 In evidence to the Equality and Local Government Committee before the summer recess, I was clear that the finance system for local government will need to change to support the wider reforms for local government and to make councils more sustainable and self-sufficient.
- 2.2 I also have ambitions to improve the local government finance system, including local taxation. There are opportunities to make the local tax liability across businesses, other ratepayers and households fairer. There are also steps which could be taken to simplify the system of local government funding so people can understand and engage with how and where decisions are made about the funding and delivery of local services.
- 2.3 Non-domestic rates are one aspect of the local government finance system but they are an integral part of it, raising an estimated £1.06bn towards the funding of local government and police services in 2016-17. All the money raised from non-domestic rates in Wales is redistributed to fund these services. Any reforms must seek to maintain this funding stream and to build on the positive aspects of the NDR system, such as the collection rate which, at 97.5%, is one of the highest among all UK taxes.
- 2.4 There have been a number of wide-ranging publications setting out different stakeholder views, academic analysis and policy recommendations about the reform of non-domestic rates. This includes the report of the Independent Commission on Local Government Finance Wales, the Business Rates Panel Report, the Business Rates Task and Finish Group and the evidence review about systems of local government finance, which was published by the Welsh Government earlier this year.
- 2.5 The Independent Commission on Local Government Finance Wales recommended the full retention of non-domestic rates income by local authorities. The Business Rates Panel Report made a number of recommendations about the design of the system and administrative

improvements. It highlighted the need for stability in the short term following the financial devolution of non-domestic rates to Wales, while exploring improvements and new approaches in the medium to long term. The Welsh Government's evidence review looked more broadly at the principles of tax design and theory, suggesting systems that are more diverse, including a mix of taxes and income sources. This suggests governments should consider the overall shape and composition of finance systems rather than focus on any single component.

2.6 I am keen we examine the real-world impact of such ideas to ascertain the balance of costs and benefits from such alternative approaches for the Welsh economy, ratepayers and local services. This work will be carried out with the practical advice of experts through the Local Government Finance Reform Working Group.

3. Short to medium-term priorities

3.1 Businesses and other ratepayers may be anxious about the forthcoming NDR revaluation, which will be announced on September 30 and will come into effect in April 2017. The postponement of the 2015 revaluation means that properties are still valued according to 2008 values. I will make a statement in due course about Welsh Government support for small businesses which are negatively affected by the VOA's revaluation exercise.

3.2 In this context, my immediate priority is to provide certainty and security to small businesses to enable them to plan for the future with confidence. On 15 September 2016 I announced plans to extend the existing Small Business Rates Relief (SBRR) scheme to 2017-18. This will provide 100% relief to businesses with a rateable value of up to £6,000 and tapered relief to those with a rateable value of between £6,001 and £12,000.

3.3 More than 70% of business premises in Wales will be supported by the small business rates relief scheme – more than half will pay no rates at all.

3.4 Extending the SBRR arrangements to 2017-18 provides a year in which to thoroughly examine the effectiveness of the scheme and to consider how best to target more than £98m of Welsh Government funding to ensure those small businesses most in need are properly supported.

3.5 From 2018, I will implement a new permanent scheme aimed at supporting diverse and sustainable small businesses, as this contributes to the wellbeing of our local communities. As non-domestic rates can, in some instances, represent a higher proportion of the running costs for small businesses compared to larger businesses, this relief means these businesses will have more available money to invest in staff, products and increased productivity to help grow their business.

3.6 Alongside this work, I will consider proposals to help reduce avoidance within the system so all ratepayers contribute their fair share to the funding of local services. While this may only involve a small minority of ratepayers, this is a particular issue which stakeholders highlighted in responses to the consultation

on the draft Local Government Bill, citing anomalies between relief schemes, and difficulties in obtaining verifiable information.

- 3.7 I am keen to pursue administrative changes which can be implemented to improve the efficiency of the system and where possible reduce the impact on ratepayers. These measures will include implementing more comprehensive data-sharing arrangements between local authorities and the VOA, enabled by the Welsh Ministers' powers contained in the Enterprise Act 2016. In addition, we will explore the opportunities afforded by the establishment of the Welsh Revenue Authority and provisions being developed in the UK Digital Economy Bill to enable the sharing of data between different government departments and other public bodies for the purposes permitted by the Bill.
- 3.8 Improving data-sharing within the NDR system will reduce the administrative burden on ratepayers having to provide similar information to different organisations and will help local authorities' fraud investigation, collection and enforcement activities.
- 3.9 Improvements can also be made to the appeals system. While a mechanism for challenge and redress is an integral part of any taxation system, under the current system more than two-thirds of challenges brought against a NDR liability result in no change to a property's rateable value and only 15% of all the appeals listed by the Valuation Tribunal for Wales are actually settled by the tribunal. This cannot be an effective use of scarce public resources and the strain it puts on the system means that, on average, ratepayers can be engaged in the process for more than a year before their case is resolved. This means appeals can subsequently result in significant back-dated changes in liability which creates financial uncertainty for businesses and local authorities. I am considering proposals for reforming the appeals system and will consult on reforms later in the year.

4. Longer-term considerations

- 4.1 The above proposals can all be delivered over this Assembly term. More fundamental changes to the NDR system require primary legislation and could therefore only be delivered in the longer term.
- 4.2 There are calls from some in local government and in the business sector for rates retention. While I recognise it can benefit those areas which have strong local economies, we must also be aware that only a few local authorities in Wales raise more in non-domestic rates than they receive from the pool. I am committed to exploring the feasibility of rates retention and other NDR flexibilities.
- 4.3 I will also commission work to explore alternative methods of taxation, including looking at mechanisms such as land value tax as a possible longer-term replacement for non-domestic taxation in Wales. This will examine the real-world impact of the ideas rehearsed in academic literature to ascertain the balance of costs and benefits from such alternative approaches for the Welsh economy, ratepayers and local services. This work will be carried out with the practical

advice of experts through the Local Government Finance Reform Working Group.

- 4.4 This would be a fundamental change in our approach to local taxation and would require new primary legislation. My aim is to be in a position, before the end of this Assembly term, where I can present emerging proposals for longer-term reforms for wider discussion and debate.
- 4.5 The current approach in England is very complex, with a partial localisation of rates overlaid by nationally-mandated relief schemes and complicated tariff and safety nets systems to support those authorities with less capacity to increase their NDR revenue. Crucially, it is linked to the phased reduction of the revenue support grant. As it has only recently been introduced, there is limited data available about whether it has effectively incentivised local economic growth. Anything we do in Wales would need to be simpler, grounded in clear evidence and framed within our approach to funding local government.

5. Conclusion

- 5.1 Improvements to the NDR system in the short, medium and long term are part of plans for the wider, and integrated, reform of the local government finance system to ensure it supports greater resilience and new ways of working among local authorities.
- 5.2 Local government is a vital partner, providing public services to tens of thousands of people every day. We must continue to support this sector and enable it to deal with future challenges. In return, local government must view its communities and businesses as assets.

Secretary of State for Wales
Wales Office
Gwydr House
Whitehall

23 September 2016

Dear Alun

The Wales Bill – Economy Infrastructure & Skills Remit

The Economy, Infrastructure and Skills Committee discussed the Wales Bill at our meeting on 21 September 2016.

We would be grateful if you could clarify certain areas of the Bill highlighted in the Annex to this letter. Specifically, where we have identified areas in which we are concerned that the Assembly's competence is reduced, I would appreciate it if you could confirm this assessment and offer an explanation as to how the scope reservations was decided. Indeed, it may be helpful to insert in to the Bill a clause confirming that the new settlement is not intended to reduce the range or scope of powers devolved to Wales.

I would be grateful for a response in order to inform the considerations of the Assembly's Constitutional and Legislative Affairs Committee.

Yours sincerely,



Russell George

Chair



Annex

In November 2015, the former Enterprise and Business Committee of the National Assembly for Wales sought clarification on the reservations and specific areas of the draft Wales Bill that applied to the subjects remit of the Committee.

Like the former 4th Assembly Committee, this Committee also welcomes the additional increase of powers for transport both in terms of the Assembly's ability to legislate and the increase of executive powers of the Welsh Ministers in specific fields. Also, previous reservations listed in the draft Wales Bill that have been removed in the Bill, as laid concerning:

- in relation to advertising, regulation specifically in relation to tobacco and tobacco products
- traffic signs in general
- marine and waterway transport

Also, that an exception to a reservation has been added (i.e. an area which the Assembly can legislate) in respect of the subject-matter of the Fire and Rescue Services Act 2004 that mirrors competence in the current settlement.

However, in large proportion, the same issues that were identified as areas of concern with particular reservations in the draft Wales Bills and set out below in the work of this Committee, continue to apply in the Wales Bill, as introduced. The Economy Infrastructure and Skills Committee therefore, continue to fully endorse the previous concerns of the former Enterprise and Business Committee in relation to the following reservations of the Bill that fall within the remit of the work of this Committee and that could impact on the Assembly's competence if the Bill comes into force, as currently drafted.

Reference to '*Schedule 7 GOWA*' below is reference to the current settlement under Schedule 7 of the Government of Wales Act 2006.

Reference to '*new settlement*' is reference to the Schedule 7A to the Government of Wales Act in the Wales Bill.



1.0 The following set out the Committee's view concerning specific reservations under **Schedule 7A – Head C – Trade and Industry**.

1.1 Section C6 Consumer protection

1.2 The current exception in Schedule 7' GOWA prevents the Assembly from legislating about *'consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indication.....'*

1.3 The new settlement includes a more detailed description of what the reservation 'consumer protection' includes. For example, in **reservation 70** the additional words 'supply of services to consumers' are included in the new settlement which do not appear in the current exception in relation to consumer protection Schedule 7, GOWA. The wording of this reservation is therefore, narrower.

The Committee is concerned that it is still not clear whether the supply of services to consumers applies only within the context of the Sale of Goods Act 1979 or is it intended to apply further across different types of services to consumers more generally, e.g. bus services etc.

1.4 Further, the new settlement includes the wording *'safety of, and liability for, services supplied to consumers'* in reservation 71. This wording is also not currently contained in Schedule 7, GOWA and is therefore, **a reduction** of the Assembly's competence.

The Committee is concerned that the Assembly's competence is reduced in relation to reservation 71.

1.5 In relation to reservation 72 and reference to 'estate agents', as the Assembly is currently able to legislate on the 'promotion of business and competitiveness' and 'estate agents' are not specifically referred to as an exception in Schedule 7 this reservation therefore, **potentially reduces** the Assembly's competence in relation to 'estate agents'.



The Committee appreciates the clarity provided in the Explanatory Notes that confirms that letting agents are a devolved responsibility but is concerned that the regulation of estate agents listed in reservation 72 is a potential reduction of competence.

- 1.6 The following wording in reservation 76 is not clear and the Explanatory Notes to the Bill do not provide any further detail – *‘the national accreditation body and the accreditation of bodies which certify or assess conformity to technical standards in relation to products or environmental management systems.’*

The Committee’s view is that it is unclear as to whether reservation 76 represents a reduction in competence.

2.0 Section C12 Assisted areas and limits on financial assistance to industry

- 2.1 Reservation 87 limits the Assembly’s competence in relation to:

Section 1 and Section 8(5) (7) of the Industrial Development Act 1982 (‘the 1982’ Act)

- 2.2 Section 1 allows the Secretary of State by Order to specify any areas of Great Britain as a development area or intermediate area. Further, Section 8 allows the Welsh Ministers to provide financial assistance for industry. Para 195 of the Explanatory notes says that, ‘the reservation on the financial limits means that financial assistance to the industry under section 8 of the Industrial Development Act 1982 by Welsh Ministers, Scottish Ministers and UK Ministers combined cannot exceed total expenditure thresholds which are set by UK Ministers’.
- 2.3 While executive powers are retained for the Welsh Ministers under Section 8 of the 1982 Act, the inclusion of the subject matter of the 1982 Act potentially **narrows the Assembly’s ability to legislate under** the current wording of Schedule 7 of GOWA and general heading ‘economic regeneration and development’.



The Committee is concerned that the Assembly's competence is reduced in relation to reservation 87.

3.0 The following sets out the Committee's view concerning specific reservations under Schedule 7A – Head E– Transport.

3.1 Section E1 Road transport

3.2 Reservation 104, concerns driver licensing and includes (training, testing and certification) whereas under Schedule 7, GOWA '06 it is only referred to as 'driver licensing'.

3.3 The wording therefore, is narrower under the new settlement and the inclusion of the word 'training' could impact on the Assembly's ability to legislate in relation to the promotion of road safety.

The Committee is concerned that reservation 104 represents a reduction in the Assembly's competence given that the Assembly in the current settlement is able to legislate in relation to the promotion of road safety.

4.0 Section E2 Rail transport

4.1 The current exception under Schedule 7 GOWA, refers to 'provision and regulation of railway services' whereas under the new settlement, reservation 123 only states '*railway services*'.

4.2 The interpretation provision under E2 defines 'railway services' more specifically by reference to section 82 of the Railways Act 1993. This includes:

- *services in relation to the carriage of passengers, luggage, parcels mail and goods and services in relation to stations,*
- *maintenance facilities and*
- *the provision and operation of the rail network itself*

The definition of 'railway services' is more restrictive than the current settlement and the Committee is concerned by the potential reduction in competence in relation to reservation 115.



4.3 Section E6: other matters

- 4.4 The current exception in Schedule 7 refers to ‘technical specification for fuel in use of internal combustion engines’ whereas the new settlement under reservation 126 refers to the same issue:

‘technical specifications for fuel or other energy sources or processes for use in road, rail, marine waterway or air transport’

- 4.5 The wording under the new settlement is more restrictive and encapsulates other wider forms of transport, and means of propulsion other than internal combustion engines, so is therefore, a **reduction** in competence.

The Committee is concerned that reservation 126 reduces the Assembly’s competence.

5.0 Bus Regulation

The potential for the regulation of buses in Wales is an area which the previous Committee and the Welsh Government has said it requires further powers. The following example was also provided to this Committee illustrating how Bus Regulation might be viewed in terms of Assembly competence in the new settlement.

- 5.1 *Example: Under the new settlement, there is now scope for the Assembly to legislate concerning local bus registration. Aside from these, Department for Transport told the E&B Committee in September 2015 that it believed that the Assembly / Welsh Ministers already had powers to regulate buses.*
- 5.2 *There are also currently limited executive powers for the Welsh Ministers/ local authorities to co-ordinate bus operations under current legislation, these are set out in the Transport Act and Local Transport Act 2008, and include Voluntary and Statutory Partnerships and Statutory Quality Contracts.*
- 5.3 *Both the above-mentioned levers in theory should allow for the regulation of buses in Wales. However, there is a caveat to this. This because some of*



the associated benefits of regulation include the possibility of capping and regulating fares and integrated ticketing. It is not clear whether issues such as these would be caught by the following reservations:

C3: Competition: reservation 67 'Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers'.

C6: Consumer protection: reservation 70 'Regulation of the sale and supply of..... services to consumers'

The Committee is concerned that issues such as fares and integrated ticketing would be caught by the above mentioned reservations should, such an option be pursued in Wales.

6.0 The following sets out the Committee's view concerning specific reservations under Schedule 7A – Head H – Employment.

6.1 Section H1 – Employment and industrial relations

6.2 Currently, the Assembly can legislate on 'silent subjects' i.e. (it is neither a devolved subject, nor an exception under Schedule 7) provided it is related to a 'conferred subject' under Schedule 7 of GOWA and the current settlement.

6.3 This was confirmed in the Supreme Court decision in light of the Agricultural Sector (Wales) Act 2014 where the Act was within competence despite it both relating to a devolved subject 'agriculture' and a silent subject 'employment'.

6.4 In the new settlement a silent subject 'employment' has become a specific reservation under Head H *'Employment rights and duties and industrial relations including the subject of.....'* [and reference to a list of specific Employment legislation].



6.5 Further, a specific exception has been made to this Reservation which excludes *'the subject-matter of the Agricultural Sector (Wales) Act 2014'* and protects the subject-matter of this Act.

6.6 Including 'employment' as a reservation in the current settlement in combination with the new legislative tests is a **significant reduction** in the Assembly's competence in the context of employment.

6.7 There is also another Head under the new settlement – 'the professions' that includes not legislating on health professionals which seems a broader reservation than the current exception in Schedule 7, GOWA.

6.8 The Committee was provided with the following example of how might a proposed Bill in the new settlement be considered:

- *Proposed future Bill that is seeking to legislate on wages, conditions and training in social care sector – similar to Agricultural Sector (Wales) Act 2014.*
- *Under present settlement in light of Supreme Court decision on 2014 Act – Bill concerning social care sector would be within competence.*
- *Proposed reservation of 'employment rights and duties and industrial relations' under Head H, Section H1 of Schedule 7A – likely to take to same Bill **outside competence.***
- *The single exception for the subject matter of the 2014 Act makes this more likely – implying that whilst agricultural wages, holidays and training are within competence, these will be reserved in other sectors.*

The Committee is greatly concerned as to why competence is being reduced in relation to legislating on 'silent subjects' such as Employment provided they 'relate to' a 'conferred subject' under Schedule 7 of GOWA.

7.0 Section H3 – Job search and support

7.1 Reservation 141 'Arrangements for assisting persons to select, train for, obtain and retain employment and to obtain suitable employees' potentially narrows the Assembly competence on economic development under Schedule 7



GOWA. The Explanatory notes of the Bill explains 'that the intention behind the reservation is to reserve legislative competence in relation to all work-related programmes for disabled persons'. Despite the explanation the wording potentially narrows the assembly competence under 'economic regeneration and development' under Schedule 7 GOWA.

The Committee is concerned with the potential reduction in competence in relation to reservation 141.

8.0 Particular areas of uncertainty in relation to Welsh Minister executive powers

8.1 Devolution of the Wales and Borders Franchise and transfer of the executive functions of the Welsh Ministers is not dealt with in the Bill.

8.2 The St David's Day announcement and paragraph 2.5.10 of Powers for a Purpose document stated:

8.3 *'The UK Government is devolving executive franchising functions to the Welsh Government, to enable them to lead on the procurement and management of the next Wales and Borders franchise.'*

8.4 In a written statement on 12 July 2016, the Cabinet Secretary announced, 'that from early 2017, responsibility for rail franchising will be transferred from the Secretary of State to the Welsh Ministers'.

The Committee would also welcome clarification from the UK Government on the timescales it is working towards, in devolving executive functions to the Welsh Ministers in respect of the Wales and Borders Franchise, given that this is not provided for within the Bill.

8.5 Further, the Welsh Government has previously requested that a change be made to the Railways Act 1993 that would allow public sector bodies to bid for franchise contracts. This would mirror the position for Scotland where provision is provided for in relation clause 49 of the Scotland Bill 'Rail:



franchising of passenger services'. Similarly, provision has not been made in the Bill.

- 8.6 In discussing the implications of the Smith Commission for Wales, the St David's Day announcement said analysis of "relevant Smith recommendations in the Welsh context" would be undertaken "to enable decisions to be taken early in the next Parliament on which might be implemented for Wales".
- 8.7 Department for Transport officials told the former E&B Committee in September 2015 that the issue was being actively considered: *"the UK Government agreed to consider which non-fiscal parts of the Smith Commission agreement, including that commitment, might be implemented for Wales. That consideration is on-going, and further discussions with the Welsh Government will take place shortly in the context of preparing the Wales Bill"*.

The Committee is concerned that in relation to the St David's Day announcement and the discussion of the implications of the Smith Commission for Wales, particularly in relation to the amending of the Railways Act 1993 (that would allow public sector bodies to bid for franchise contracts) is not a feature of the Wales Bill.



Ken Skates AM
Cabinet Secretary for Economy and Infrastructure

26 September 2016

Dear Ken

Rail timeline

In developing our forward work programme the Assembly's Economy, Infrastructure and Skills Committee intends to undertake an inquiry into the Welsh Government's plans for the next Wales and Borders Rail Franchise and the Metro.

To help us plan our work on this topic I would be very grateful if you could write to me setting out the timeline for procurement and delivery of both the franchise and Metro highlighting key milestones, particularly plans for public consultation, and an outline of your planned approach to delivery. This will allow us to identify the best time to undertake the work and ensure it is a constructive addition to public debate.

In particular, I note from your 12 July statement that you plan to hold a public consultation on "a clear set of proposals" early in 2017. I would be grateful if you could provide further details on this consultation, particularly the subject matter the consultation, the timeframe and the scope to make changes to your plans in the light of consultation.



I look forward to receiving your response

Kind regards

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a large initial 'R' and a long horizontal flourish underneath.

Russell George AM

Chair, Economy, Infrastructure and Skills Committee

