

Written Evidence for Scrutiny of Local Government Finance Bill

Senedd Local Government and Housing Committee

FSB Wales

January 2024

About FSB

FSB Wales is the authoritative voice of businesses in Wales. It campaigns for a better social, political, and economic environment in which to work and do business. With a strong grassroots structure, a Wales Policy Unit, and dedicated Welsh staff to deal with Welsh institutions, media and politicians, FSB Wales makes its members' voices heard at the heart of the decision-making process.

Introduction

Non-Domestic Rates are a constant issue for the small business community, and for FSB are an issue on which we campaign regularly. FSB do this by highlighting the numerous problems with the system in terms of being complex, is a disincentive to business and high street tenancies, with businesses paying the tax before making a penny of profit.

On the other hand, it is one of the few levers that Welsh Government has in its power to release a pressure valve on businesses through reliefs, which is why we will continue to campaign to retain the business rates relief for the next budget on Retail, Leisure and Hospitality businesses at the same level as will be the case in England.

As such we are broadly supportive of the incremental reforms presented in allowing Welsh Government more flexibility to react in a less blunt way using the NDR system, and particularly with the possibility of differential multiplier levels, which could potentially have been a useful flexibility in this budget round to better target support to where it was needed among small businesses.

The FSB report 'A Duty to Reform'¹ outlines the good principles of taxation to which any reform process should look to as its starting point. All changes to the tax system need to consider the primary principles of taxation to ensure that the system is fit for purpose:

- **Fairness:** each business should pay its fair share of taxes, and the rates paid should be similar to those conducting comparable activities. Equally, businesses should be receiving any reliefs they are entitled to.
- **Adequacy:** the tax collected by government should be enough to cover government expenses on public services.

¹ 'A Duty to Reform' (FSB: 2021); <https://www.fsb.org.uk/resource-report/a-duty-to-reform.html>

- **Simplicity:** each taxpayer should have a clear understanding of the tax system, the taxes they need to pay, when their liabilities are due, and how much is due.
- **Transparency:** taxpayers should have an understanding of how their tax payments are being used.
- **Administrative ease:** the payment of tax liabilities should be a simple process that is not burdensome to either the taxpayer or the tax collector.

Governments should also keep **neutrality** in mind when proposing any tax changes, to minimise any potential harmful effects. VAT is a good example of a harmful, non-neutral tax; many small businesses deliberately slow down their activities so as not to pass the £85,000 threshold and become liable. This therefore suppresses economic activity within the economy.

There are occasions where non-neutral taxation can be appropriate, for example when policy outcomes rely on using taxation as a tool, such as the possibility of green taxes to reduce carbon emissions. Where taxes are not neutral, this should be due to a conscious policy choice to influence behaviour, rather than an unintended consequence, and should be communicated as such.

These principles should underpin any NDR (or indeed council tax) reform process.

This response to the inquiry focuses on the NDR reform in the Local Government Finance Bill. In terms of council tax reform, this is not an area of FSB expertise. However, we would note that learning be captured from any council tax reform process to look at opportunities and risks for any further future NDR reform. So, testing of its proposals should be assessed in ways that where possible can apply to any possible NDR reforms too (be that in form, in moving to different type of tax (e.g. income, land value), administration and capacity, powers to change, proposals to transition to a new system etc).

FSB Wales will respond to the main NDR reforms the Bill proposes in turn.

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- **increasing the frequency of revaluations to three-yearly, and a power for the Welsh Ministers to amend the revaluation year and interval between revaluation years through regulations;**

FSB Wales is supportive of this changed and have long campaigned for this reform.

Prior to the 2023 revaluation based on 2021 assessment, the last revaluation was done in 2015, and clearly given the huge changes in the economic environment in the interim, this gap until the revaluation from 2021's rateable values is limited in its link to market values, and to the economic context in which those ratepayers operate. As a result of these long cycles, there is a greater need to provide sticking plasters on sectors affected by external shocks through reliefs, all making the system more complex.

Nevertheless, it is also important that the revaluations are fair to business and are reflective of changes in market conditions, which for most businesses are more challenging now than would have been the case in 2015. It should not be the case that the automatic expectation is that revaluation should be raising rates, particular in a time of economic difficulty – if this is the impact, it is a disadvantage to SMEs to have more

regular cycles, as it is important that they can lead to lower costs and not just rising rates.

So, it is important that there is clarity for ratepayers that more regular valuations should not mean more regular hikes in costs and so that the valuations need themselves to take account where there are economic storms and impacts on business and not be aimed at maximising revenue. In a time of rising rents, rental values may not be the best proxy either as these are additional costs outside the control of tenants. Supporting businesses to bring down costs where sectors are struggling is a key part of the system and it is important that tax base resilience for future revenue is seen as equally important to raising revenue for services now.

As noted in the Explanatory Memorandum, there are significant jagged edges and limitations to Welsh Government space for action as the VOA is UK responsibility while the Welsh government has powers over the NDR rates themselves. As noted in the paper this may well change following the current exercise by the VOA

"3.9 A significant system transformation project is being undertaken by the Valuation Office Agency which creates the potential for more opportunities for decisions to be made by the Welsh Government in relation to the valuation processes and support delivery of our reform programme. However, we would need to either agree the repurposing of resources, or a transfer of adequate resources to Wales, if the work currently undertaken by the Valuation Office Agency is needed to change fundamentally to enable the delivery of improvements to our local tax system(s)."

However, at present there is a question whether the scope to provide for in-cycle valuations is likely to be used, and is a substantive power or on paper only. This would require understanding what capacity the VOA would have for such an exercise, and what power Welsh Ministers would have to compel such an exercise (given pressures to valuations elsewhere in England within its remit).

As such, and while it is beyond the scope of Welsh Government powers, it is important that the measures and weighting of different forces used by the VOA are transparent and any such formula is clear, in terms of balancing (for example) rental values, area measurements in square metres and sectoral needs, sustainability, footfall, retail, land value, and so what should be part of the valuation is not a neutral exercise. If these formulae are accessible and transparent, outside the cycle the weighting could potentially be changed to place support for businesses in the structure of valuation and so less dependent on reliefs (for example to reflect inflation shocks etc.).

In future, if as noted in the Explanatory Memorandum (paragraph 3.9) that there will be scope to influence VOA, the possibility that Ministers could enact in-cycle changes to the weighting according to whether there have been changes (e.g. rent rises, footfall, discretionary spend) is something that could be explored.

NDR is one of few levers Welsh Government has to release pressure on SMEs at times of difficulty – so any additional flex in this area that allows more space to provide support is to be welcomed, and Welsh Government should continue to explore and use any such powers as much as appropriate to the business context of the time. Any possible movement in change to the administration of valuations through the VOA should be monitored and clear asks for influencing its operation by Welsh Government be developed ahead of time to ensure maximum flexibility on influencing the operation of valuation (within continuing limits of economic of scale through VOA covering England as

well as Wales as noted in the EM) as well as control over the rates arising from the valuation.

- **conferring regulation-making powers on the Welsh Ministers to confer, vary or withdraw reliefs;**

FSB Wales support this power in principle, although it is of course of more interest to us how it is then enacted. But it is rational to provide a central point to organise a complex and often unwieldy system.

There may be a case to look at how place-making can allow Local Authorities to use reliefs/variation for particular areas through a business case beyond discretionary reliefs (e.g. high street development, where such reliefs – or holidays may be useful; holidays for new businesses for up to 2 years). This may be best done through Ministerial agreement to ensure a consistent strategy that aligns different needs and place making as fitting within wider strategy. In terms of how this would work, we would expect that a Minister should provide a reason and rationale why a request by local areas be refused, alongside any assessments to support the decision being on public record.

- **strengthening the eligibility conditions for charitable relief for unoccupied hereditaments.**

FSB Wales support this as the level of conditions seem proportionate to the problem addressed.

- **expanding the definition of a new building for the purpose of the serving of completion notices by local authorities;**

This appears rational, particularly if properties back on the list are used for different purposes, been developed, or have fallen into disrepair. There may be a question of whether this stretches any administrative capacity locally, but this is probably unlikely.

- **removing a timing restriction on the awarding and varying of discretionary relief by local authorities;**

FSB Wales agree with this provision as one that allows Local Authorities to better respond to any pressures on businesses in their area. Removing the arbitrary allowance of only awarding or varying the relief in the first 6 months of the financial makes sense as crisis are just as likely happen between October and April.

- **conferring regulation-making powers on the Welsh Ministers to confer, vary or withdraw exemptions;**

FSB Wales are supportive of this power in principle as again it makes sense to have a central point of decision making to apply consistency where possible to an unwieldy and complex system. There is a need for scrutiny of Ministerial decisions and to ensure a framework for decisions ensuring they are done on a consistent basis. The reason for any decisions on exemptions should be on public record with a rationale for the decision taken.

The process on how local authorities or town councils, or local citizens ask for exemptions and guidance on when appropriate is important though. The impact of any

decisions and the rationale for exemptions will likely be better understood locally than centrally.

- **conferring a regulation-making power on the Welsh Ministers to set differential multipliers based on the description, rateable value or location of a hereditament on the local list, or the rateable value of a hereditament on the central list;**

FSB Wales strongly support this provision. Clearly, we support allowing Welsh Government to provide for lower multipliers for smaller businesses to pay a lower multiplier as is the case in England and Scotland.

The basis of any change and variation should be made clear, and any change requires impact assessment and a clear statement on the rationale of how and why any decision was taken.

It would also be useful in the present context for Welsh Government to note how they would look to use this power in current economic context were it to have this power in the current draft budget. The current multiplier cap as applied in the draft budget applies similarly everywhere and so is not targeted (but is consistent). Its operation therefore applies to micro and larger businesses alike.

What might Welsh Government do with this power? This would demonstrate concretely their priorities, why they need this power, and what utility and flex it provides and its material impact on businesses. As such it would be a useful indication of the relevance of the bill to local businesses' material needs.

Once the bill is passed, we would encourage Welsh Government to make maximum use of this flexibility to support smaller businesses, and if it can have a significant impact to introduce a lower multiplier in-year of a budget cycle.

- **placing a duty on ratepayers to provide certain types of information to the Valuation Office Agency, and making provision for the associated compliance regime; and**

FSB Wales agree in principle.

However, it important that guidance is simple and clear, that paperwork is light, and that this does not become a 'planning' issue that disincentivises business developments. These are covered as aims in the list in paragraph 3.60, but the detail will be important to ensure that there is no significant additional burden. The principles in para 3.60 are correct, but it is how this is materially interpreted by VOA that is important – e.g. the scope they provide for leniency or not and on what basis.

It is important that how the aspiration for straightforward and easy to use system be achieved in administrative decision making is clarified, and any accompanying guidance fit the principles outlined in paragraph 3. 60..

It should also be noted that more regular revaluations within the bill should make this requirement less of a need than at present, as should the requirement to certify annually any changes. So, it is important that the level of oversight and bureaucracy for any 'change of use declaration' and accompanying revaluation outside the cycle be proportionate.

- **making provision about counteracting advantages arising from artificial avoidance arrangements.**

FSB agree with this provision, as level playing field is important for SMEs and fair competition.

However, it should be noted that there will always be areas of business that are legitimately grey areas, or that businesses straddle across different sectors. In such cases legitimate diversification should be incentivised. It is important that any such provisions for a few using `avoidance arrangements not impact adversely on legitimate business expansion and diversification. These are to be encouraged as businesses will be more resilient to sectoral crises and provide foundations to build new areas of business activity, jobs and skills in their communities.