

ASSESSOR'S QUARTERLY PROGRESS REPORT TO THE JOINT BOARD



18 March 2013

1.0 PURPOSE OF REPORT

To advise and update members as to the service overview and priorities, current issues and the future direction of the Joint Board.

2.0 ELECTORAL REGISTRATION SERVICE OVERVIEW AND PRIORITIES

2.1 Electoral Registration – Service Overview 12th November 2012 – 7th March 2013

2.1.1 2012 Canvass

I am pleased to say that the annual canvass was completed on time with the register published by 1st December 2012. The registration rates had been declining year on year and I am pleased to say that this year saw an increased return rate and an increased number of electors on the Electoral Register.

| | Canvass Return Rate | | Number of Electors | |
|-------------------|---------------------|------|--------------------|-----------------|
| | 2011 | 2012 | 1 December 2011 | 1 December 2012 |
| City of Edinburgh | 82 | 85 | 333,389 | 345,150 |
| East Lothian | 92 | 93 | 76,231 | 78,226 |
| Midlothian | 91 | 94 | 63,121 | 65,064 |
| West Lothian | 89 | 92 | 126,293 | 131,149 |
| Lothian Total | 85 | 88 | 599,034 | 619,589 |

The main changes used to improve registration rates included the following;-

Statement on Envelope

As mentioned in my last report I had added a statement to the front of the canvass envelope stating 'Save taxpayers money – reply immediately to avoid a reminder or home visit' in the hope of improving the percentage return. We received comments from 6 electors that they considered the statement threatening/offensive. One such objection came from the household of a member of staff. I am awaiting the outcome of a complaint against me under the Fair Treatment at Work Policy.

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2.1.1./ Increased Door to Door Activity

I employed 231 canvassers to carry out door to door activity of households where no return was received and the residents could not be verified, this was an increase from 60 employed for the previous year's initial doorstep canvass. The number of properties visited by a canvasser prior to the publication date was 50,600, this is compared to 38,000 the previous year. There were 3 incidents where staff suffered verbal and/or physical abuse. A caution register has been prepared which will ensure the properties are, in future visited during daylight hours by 2 people.

2.1.2 Electoral Commission Canvass Performance Assessment

The Electoral Commission advised me on 5th March of my performance assessment for the 2012 canvass. I am pleased to report that I have been assessed as meeting 6 of the standards and being above 4 of the standards. I have attached a copy of their assessment to my report. As you will see from the assessment report the Commission will publish their report on ERO performance in May 2013. **See Appendix 1**

2.1.3 Continued Canvass Activity

Due to difficulties recruiting sufficient canvassers to complete the canvass activities during October/November 2012 it has been necessary to recommence door to door canvassing during February/March. I have 32 temporary canvassers carrying out doorstep canvassing of 13,000 properties.

2.1.4 Absent Voters List

At 1st December 2012 the absent voters list had 99,968 electors. As a result of requests made on the canvass forms for absent vote applications, 32,000 application forms were issued. As at the early March 15,000 application forms had been received. The total number of electors on the absent voting list now stands at 109,396.

2.1.5 Cabinet Office Data Matching Pilot

I have given several reports to the previous Board members on the Cabinet Office data matching pilots which we are participating in. We continue to work with the cabinet office to improve the matching methods to ensure that the matching system due to be utilised during the transition to Individual Electoral registration are as robust as possible.

2.1.6 Transition to Individual Electoral Registration

The transition to individual registration commences this year. During the summer months we will carry out a confirmation dry run which will allow the Cabinet Office and me to estimate the likely match rate that we may expect when IER is formally introduced in summer/autumn 2014. The dry run will also ensure that all systems, data and processes are fit for purpose.

To/...

2.1.6/ To improve the match rate the legislation has now been drafted to postpone the Autumn 2013 canvass to commence from 1st October 2013 with a publication date in Scotland of 10th March 2014 instead of 1st December 2013.

The extra time available for canvass activity should ensure that all door to door enquiries are carried out during the canvass thus hopefully improving the overall return rate and numbers of electors. As the legislation and process maps are still under development the activities after March 2014 remain open to change.

2.1.7 Scottish Independence Referendum

Legislation is currently being drafted to extend the franchise for the Referendum and to enable the appropriate legislative provisions to be in place. Many of the changes are required as a result of the commitment to extend the voting age franchise to 16 and 17 year olds. It is expected that the legislation will be in place to allow a young voter registration form to be in place for this years autumn canvass due to commence in October. It is anticipated that each household will receive both a household form and a young person's voter form. The household canvass form should be completed by all persons aged 16 and over at the date of completing the canvass form. Young persons who will attain the age of 16 by the referendum date (or 31st December 2014) should complete the separate Young Person's Voter Form.

2.2 Electoral Registration – Service Priorities March 2013 – June 2013

2.2.1 The service priorities over the next 3 months

- Continue with initiatives to encourage participation and improve registration rates;
- Apply absent voting requests as received;
- Work with the Cabinet Office to ensure smooth transition to IER.
- Carry out preparatory work for the Absent Vote PI refresh which is due to be undertaken in August/September 2013.
- Prepare plans and strategy for the final old style canvass due in 2013/14
- Consider process maps, timetabling, risk analysis and overall strategy for IER introduction

3.0 COUNCIL TAX OVERVIEW AND PRIORITIES

3.1 Council Tax – Service Overview–12th November 2012– 1st March 2013

3.1.1 Council Tax – New Dwellings

As at 12th November 2012 there were 394,766 chargeable dwellings in Lothian which has risen very slightly to 395,401 as at 1st March 2013, an increase of just 635 dwellings in over 3 months. House building continues to be very sluggish.

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3.1.2 Council Tax – Altered Bands

During the period, as a result of alterations carried out prior to the date of sale and re-appraisal of bandings, the bandings of 52 dwellings have been altered. The number of band changes remains at a very low level possibly reflecting the lower number of house sales.

3.1.3 Council Tax – Altered Houses with no sales

During the period, the records of 510 dwellings have been updated, as a result of alteration work being carried out to existing dwellings. As previously reported the updated information should improve the time taken to alter the bands of any altered dwellings which are subsequently sold and also ensure preparation for any future revaluation or property tax.

3.1.4 Council Tax – Proposals and Appeals

The numbers of Council Tax proposals/appeals outstanding continues to stand at reasonable levels. As at 12th November 2012 there were 62 cases outstanding. As at 1st March 2013 there were 58 cases outstanding. Appeal hearings continue to be arranged regularly to ensure the disposal of cases at least equates to the number received thus maintaining low numbers outstanding.

3.1.5 Council Tax File Review

The process of modernisation of the file contents and document retention continues. Since the start of the task in July 2012 20,000 domestic files have now been scanned and documentation sent for confidential disposal.

3.2 Council Tax – Service Priorities March – June 2013

The main service priorities in Council Tax are as normal:-

- Continue improvement on the time taken between completion of new dwellings and the insertion of the dwelling in the Council Tax List in accordance with performance targets;
- Continue improvement on the time taken between the sale of houses which have been altered and the date their Council Tax Band is changed;
- Update my records by carrying out the survey of Council Tax subjects which have been altered and not sold;
- Continue to resolve proposals and appeals against Council Tax banding;
- Continue with the transfer of house data from paper to electronic format and review performance achieved.

4.0 /...

4.0 NON DOMESTIC RATING OVERVIEW AND PRIORITIES

4.1 Non-Domestic Rating – Service Overview 12th November 2012 – 1st March 2013

4.1.1 2010 Revaluation Appeals

A total of 10,927 appeals were received against the 2010 Revaluation Roll as published. The number of subjects appealed was 10,386. A total of 9,563 appeals have been resolved to date with 711 of those appeals being dealt with during the period 12th November 2012 – 1st March 2013. A diary of courts continues to ensure the appeals are all disposed of by the 31st December 2013, the last date permitted by statute.

The Scottish Government recently met with interested parties to consider requests made to extend the time limit for disposal of appeals. I have been advised that the Minister will consider the appeal statistics during May and at that time make his decision as to any extended time period.

4.1.2 Running Roll

My professional and technical staff have continued to survey and value subjects that have been newly constructed, altered or demolished. From 12th November 2012 to 1st March 2013, there have been 302 additions, 742 valuation alterations and 275 deletions. This is increased activity and hopefully a slight sign of a change in the commercial market.

4.1.3 Running Roll Appeals

As a result of amendments to the Valuation Roll and, issues relating mainly to the economic decline, running roll appeals are constantly being received and dealt with where possible. As at the start of this financial year, there were 13,804 running roll appeals outstanding. During the period 12th November to 1st March 2013 4,434 of those appeals have been resolved. As at 1st March the number of outstanding running roll appeals stood at 4,779. Courts to deal with this type of appeal are scheduled to continue through the calendar year. The vast majority of appeals are required to be cleared, within the same statutory framework as the Revaluation appeals, by 31st December 2013. I am delighted with the significant number of appeals cleared and with the progress made in the scheduling of appeal disposal.

We await to see if any further large tranche of appeals are lodged during March 2013.

4.1.4 Lands Tribunal and Lands Valuation Appeal Courts

There has been a slight decrease in the number of appeals which remain outstanding at the Lands Tribunal. I have been liaising with the Lands Tribunal through the Lands Tribunal for Scotland Users Group to prioritise the listing and disposal of the outstanding workload.

Telecom Mobile sites were heard by the Tribunal in December and a decision is awaited. There is however a fairly high expectation that the subjects will be further appealed to the Lands Valuation Appeal Court for their consideration and judgement.

Lothian/....

4.1.4/ Lothian has one stated case in preparation. The appeal is by the taxpayer against the Valuation Appeal Committee decision.

4.1.5 2017 Revaluation

The Scottish Government decided to delay the 2015 Revaluation of non-domestic subjects to 2017 in line with the decision taken in England. A similar decision was taken by the Welsh Parliament on 5th March this year. Mainland UK will therefore all proceed with a revaluation which will now be effective from 1st April 2017.

4.1.6 Scottish Government Consultation

The Scottish Government published a consultation 'Supporting Business Promoting Growth' at the same time as they announced the delayed revaluation.

The Scottish Assessors Association submitted their response which is attached as **Appendix 2**

4.2 Non-Domestic Rating – Service Priorities March – June 2013

The service priorities in Non-Domestic Rating are:-

- Prepare cases as may be required by the Valuation Appeal Committee;
- Schedule and action the disposal of appeals resulting from the 2010 Revaluation;
- Schedule and action the disposal of running roll appeals;
- Survey and value new property or alterations to existing properties to ensure the Valuation Roll is as complete and accurate as possible;
- Continue to update databases with rent, cost, turnover and throughput information to ensure analysis is as complete and accurate as possible.

5.0 HUMAN RESOURCES

5.1 UNISON

Regular JCC meetings continue to be held.

Policies are timetabled for review to ensure that all policies meet current legal, management and staff requirements.

Staffing and staff reviews continue to be a key topic for discussion

5.2 /...

5.2 Staffing

I was notified of the resignation of the HR Officer who was seconded from the City Of Edinburgh Council. Discussions are ongoing to find a suitable replacement.

The temporary canvassers employed on a rate per call basis will all complete their work this month.

5.3 Equalities

An Equalities Mainstreaming report has been completed is separately itemised.

6.0 RISK MANAGEMENT

6.1 Risk Registers

The risk register continues to be updated at each management meeting ensuring that all risks are considered and mitigated as soon as practicable. The strategic risk register continues to be reviewed and updated on a regular basis. Further job specific risk registers continue to be developed to meet audit recommendations.

6.2 Information Technology

At present the organisation is operating with dated hardware and with various older versions of Microsoft Office and operating systems software. This mixture of platforms causes some difficulties with staff usage and can impact processing speed. This has been noted as a risk to our service delivery.

As the organisation is facing a substantial change in the manner in which electoral registration services are delivered it has been considered necessary to now review the IT provision.

As the 2015 Revaluation has now been delayed to 2017, this timeframe will allow us to invest staff time in the development of new databases and systems to improve information handling and service delivery. Again this has afforded me an ideal time to review the IT provision.

The first step has been taken to renew all desktop computers and commence the upgrade to Microsoft 7 and Office 2013.

The need for an additional quality high throughput scanner has also been identified as urgent to enable improved workflow and input of:-

- the expected increase in electoral mail items arising from the extended franchise Scottish Independence Referendum
- the expected increase in volume of mail arising from the move to Individual Electoral Registration.

6.3 /...

6.3 Top Ten Risks

As requested at the last meeting I have produced a register showing the top ten risks identified for the Joint Board. I have prepared the list taking the highest risks outstanding after mitigation has been taken. Over the years risks which have very high starting scores have been reduced significantly by the mitigation steps now taken.

It should be noted that although we maintain a rolling risk register, for ad hoc risks identified throughout the year, each activity within the organisation has its own individual risk register eg electoral canvass risk register. Please see **Appendix 3**

7.0 FINANCIAL IMPLICATIONS

Although there are no financial implications arising from this report it should be noted that there remains a strong probability that greater than normal monies will almost certainly be veered between various budget headings.

8.0 RECOMMENDATIONS

As there are no financial implications, nor approvals sought, the Joint Board is requested to note the contents of this report.

Joan M Hewton
ASSESSOR & ERO

18 March 2013

Joan Hewton
Electoral Registration Officer
Lothian Valuation Joint Board
17A South Gyle Crescent
Edinburgh
EH12 9FL

05 March 2013

Dear Joan

Performance standards for Electoral Registration Officers

On 31 May 2012 the Electoral Commission issued a direction to report under Section 9B(1) of the Political Parties, Elections and Referendums Act 2000. The direction required you to complete an assessment form reporting on your performance against the performance standards for Electoral Registration Officers. I would like to thank you for completing and submitting these documents to us.

I would also like to thank you for taking the time to return the evidence to us that we requested by way of a copy of your project plan and risk register (to support the assessment for standard 3: house-to-house enquiries and standard 9: planning for rolling registration and the annual canvass) and for the provision of the supplementary information requested by way of the electoral registration data collection spreadsheet, which we used to provide context to support the final assessments of performance.

For performance standard 3: house-to-house enquiries, you indicated that this process was not completed by 1 December but that you would undertake follow-up activities after this date and have in place a plan to ensure that properties which have not responded to the annual canvass and, where you are not otherwise satisfied that eligible electors are resident, are subject to house-to-house enquiries on at least one or more occasions.

Whilst we believe that this approach is sufficient to meet the standard, we are asking you to confirm by **5 April** that you have completed the follow-up activities you planned to do.

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Putting voters first

An independent body established by Act of the UK Parliament



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The information in the table below is the final assessment of performance which will be reflected in our report and published on our website.

| | Performance standard | Assessment |
|--|---|----------------------|
| Completeness and accuracy of electoral registration records | 1 Using information sources to verify entries on the register of electors and identify potential new electors | Above the standard |
| | 2 Maintaining the property database | Above the standard |
| | 3 House to house enquiries | Meeting the standard |
| Integrity | 4 Maintaining the integrity of registration and absent vote applications | Meeting the standard |
| | 5 Supply and security of the register and absent voter lists | Above the standard |
| Participation | 6 Public awareness strategy | Meeting the standard |
| | 7 Working with partners | Above the standard |
| | 8 Accessibility and communication of information | Meeting the standard |
| Planning and organisation | 9 Planning for rolling registration and annual canvass | Meeting the standard |
| | 10 Training | Meeting the standard |

Our report on ERO performance will be published in May 2013.

At the same time, information about the performance of individual Electoral Registration Officers will be made available on our website www.electoralcommission.org.uk/performance-standards, which will allow comparison with the performance of Electoral Registration Officers in other authorities and with your own past performance.

If you have any comments regarding the accuracy of the information we intend to report on please contact David Freeland on dfreeland@electoralcommission.org.uk or 0131 225 0208 by no later than **Friday 29 March 2013**.

Yours sincerely

A handwritten signature in black ink that reads "A & O'Neill". The signature is written in a cursive style with a large, stylized 'A' and 'O'.

Andy O'Neill
Head of Office Scotland
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0131 225 0201

The Electoral Commission



Supporting Business – Promoting Growth

A Response to the Scottish Government Consultation by the Scottish Assessors' Association

The Scottish Assessors' Association welcomes the opportunity to contribute to the Scottish Government's review of the business rates system in Scotland.

The Scottish Assessors' Association (SAA), which has been in existence in one form or another since 1855, has as its purpose:

“to encourage amongst its members the exchange of ideas regarding their statutory duties; to record the discussions on all subjects brought before its meetings; to promote consistency in the operation of the Valuation, Council Tax and Electoral Registration legislation; to act as a consultative and advisory body; and to represent the collective interests of its members”.

Although a voluntary organisation, all Assessors and their senior staff are members of the Association. One of the principal functions of the Association is to facilitate a consistency of approach in the administration of the valuation, council tax and electoral registration services. The policies and decisions of the Association have a bearing on how individual Assessors carry out their statutory duties. The Association gives each Assessor equal voice thus ensuring a balanced approach.

The Association works through a series of Committees which meet in advance of quarterly plenary sessions which are attended by representatives from all Assessors' offices. The SAA also liaises with the Valuation Office Agency (VOA) in England and Wales, the Northern Ireland Valuation and Land and Property Services (NILPS) and the Republic of Ireland Valuation Office (RIVO) in matters of common interest.

The Association notes that the three objectives of the review are to

- Help stimulate sustainable economic growth
- Improve the transparency of the rating system, and
- Streamline the operation of the rating system.

Given that Assessors may be required to implement any changes arising from the review, the SAA prefers not to influence policy decisions that are properly the responsibility of Ministers and Parliaments or make comment which might be prejudicial to objective implementation of the statutory scheme that is favoured. In this regard, the SAA views the stimulation of economic growth as a matter primarily of government and ministerial policy and presents options for consideration rather than specific recommendations.

Equally, however, the SAA has an unrivalled knowledge and experience in the operations of the rating system and provides more specific advice on potential improvements to the transparency and streamlining of the system in this response. Further, the SAA has over the years provided advice to government on a wide range of issues connected with detail and practicality of local property taxation and would wish to make its experience available to the Government as policy is developed.

The Association also notes that the consultation assumes a continuation of the business rates system and that revenues secured through the system must be maintained. This response takes these factors into account throughout. We have also assumed that, to provide ongoing certainty and stability, the basis of the non-domestic rating system will remain the Net Annual Value (NAV), or rental value, of each property. Further, given that they are a prerequisite for the maintenance of the credibility of any property-based taxation system, it is presumed that regular general Revaluations will take place.

The objectives of improved transparency and streamlining the system are dealt with more thoroughly later in this submission but it is worth referring to them in general terms at the outset. There is a common misconception that these objectives could be achieved through structural change in the way Assessors services are delivered.

The case for change has never been properly made, however, and it is not clear how disruptive and costly change would provide any improvements or efficiencies. Indeed, such change is likely to represent a significant risk to the tax base. The current structure of locally accountable Assessors working through a national body provides an excellent balance between local connection with property markets and national consistency. This model has contributed significantly towards making the non domestic rating and council tax systems very robust and is widely recognised to provide an independent, professional service free from political influences. The Joint Board model, whereby many back-office functions are shared with constituent authorities, provides a good example of the shared services approach which is widely advocated by government with consistent, national service delivery being achieved via common practice notes and an all-Scotland web portal which is one of the best illustrations of joint working that has been put into practice.

Further, to consider the structure of the NDR valuation service on its own completely ignores the benefits and synergies which are achieved through the combination of the Assessors' Rating Valuation role with their Council Tax Valuation and Electoral Registration service functions, particularly at a point of great change in the latter of these.

Question 1 – Are the current reliefs and exemptions offered appropriate?

Question 1a – please provide reasons for your answer to Q1. If you answered no, how would you suggest they are refined and how could they be funded?

The SAA takes these two questions together.

The initial standpoint of the SAA is that reliefs and exemptions distort the tax liabilities of ratepayers which would be arrived at purely on the relativities of analysis of the open market. The

provision of exemption and / or reliefs from non-domestic rates are policy matters to be determined by the Scottish Government. The SAA's comments will therefore be restricted to the practical effects of different policy options and provision of general advice as to the administration of any system of relief / exemption.

The cost of granting of any relief or exemption of non-domestic rates to any ratepayer must ultimately be funded either by the general body of ratepayers as a whole or by the Scottish Government / Local Authorities by other means. The SAA would therefore not advocate any specific exemption or relief. It does, however, recognise that they can be used to support, or even drive, government policy.

It is therefore recommended that any review of reliefs and exemptions should be thorough, costed, and risk assessed. It should also be underpinned and justified by clear, co-ordinated government policy. Any relief or exemption should, of course, be acceptable in terms of European 'State Aid' rules.

The SAA notes that there are a very substantial number of exemptions and reliefs from non-domestic rates. A list of the major exemptions & reliefs is attached at Appendix A, along with comments where appropriate. In many instances these reliefs / exemptions have continued for many years without review and government may wish to consider all or some of these exemptions and reliefs for review, in light of current policies and priorities.

Exemption/relief from non domestic rates may be granted either by exempting subjects from entry in the Valuation Roll, or de-rating their Rateable Value shown in the Valuation Roll, or by maintaining the entry in the Valuation Roll but granting relief from the amount of rates payable. This mixed approach is confusing and at times illogical. For example, ATMs located in rural settlements are exempt from entry in the Valuation Roll (S8C of the Valuation and Rating (Scotland) Act 1956) whilst qualifying general stores, food stores or post offices in rural settlements are granted relief from rates payable by virtue of the Non Domestic Rating (Rural Areas and Rateable Value Limits)(Scotland) Order 2005. The SAA considers that, for the reasons set out in Q10 and 11 below, wherever possible subjects should be retained in the Valuation Roll and, where required, relief should be granted by a reduction in the amount of rates payable.

The various reliefs / exemptions listed in Appendix A are conveyed through a substantial number of different legislative provisions. These provisions include both primary and secondary legislation and have been enacted at different points in history. This diversity of different legislative provisions makes it something of a minefield for ratepayers and practitioners to chart their way through the process and this reduces the transparency, efficiency and effectiveness of the system. Therefore the SAA considers that the various legislative provisions which convey relief and or exemption could usefully be consolidated, wherever possible using secondary legislation. Such an approach would facilitate the regular monitoring / review of reliefs and exemptions.

It is also true that reliefs and exemptions can have unintended consequences. The principle of the rent / rates equation suggests that occupiers normally have a fixed amount of resource available to fund their property occupation. Any decrease in one aspect (rates) may simply result in an

increase in another aspect (rent). For example, it is often observed that the rents for charity shops which benefit from charitable relief may be higher than rents for neighbouring shops which do not benefit from rates relief. In that way the benefit of rating reliefs is being, or can be, transferred, at least in part, to the landlord of the property rather than being enjoyed by the occupier of the property.

Additionally, in isolated cases, where the assessment of rateable value is based upon a limited number of rents the majority of which benefit from rates relief, the consequent increased rental levels will be used to as part of the evidence to be considered in setting Rateable Value levels at the next general revaluation and may influence the levels of NAV applied, thus negating the overall benefit of the relief being granted. In this context the granting of relief or exemption may be seen to distort the rental value base upon which the rating tax is based. This effect is most likely to arise from the application of the Small Business Bonus Scheme, which will have the greatest effect on rental levels, and consequentially on NAVs, in lower value locations where relief has become almost the 'norm'.

An example of an unintended consequence which has resulted in a loss of significant liability/revenues is the case of the Unbundled Local Loop. The Non-Domestic Rating (Telecommunications and Canals) (Scotland) Amendment Order 2008 provided, largely for administrative purposes, that unbundled local telecommunications cables should be deemed to be in the occupation of British Telecommunications plc. For reasons which have only become clear since that time, the result is a very significant loss in rateable value and revenue across Scotland. Any review of reliefs and exemptions should therefore also extend to where the benefit arises from such indirect circumstances.

Some aspects of existing relief schemes may be, or at least be viewed as being, inequitable. For example, buildings which have listed status are 100% exempt from unoccupied property rates for an indefinite period. Buildings which do not have listed status only benefit from 100% relief for 3 months and are thereafter liable to 50% (planned to rise to 90%) unoccupied rates. However, some buildings may benefit from listed status simply because a relatively small feature such as part of a frontage or internal wall is listed. This results in properties with such a feature being entirely exempt from unoccupied rates whilst other similar subjects without such a feature will be liable to unoccupied rates after 3 months.

It should be noted that wherever step changes in rates liability feature within a scheme of relief or exemption, ratepayers will modify their behaviour and / or occupation in order to minimise rating liability. This may include, for example, structuring their companies and occupation of property to secure maximum advantage of the small business bonus scheme or by concentrated appeal activity for properties that lie close to relief thresholds. This is commented on further at Q 11A below.

The transparency of any exemption or relief is improved and its quantification only becomes possible where entries are made in the Valuation Roll and relief is granted through the collection system. The SAA notes that the extent of relief currently available to, for instance, agricultural and public park subjects cannot be measured or reported upon, though it does recognise the

resource/cost implications of including such subjects, which would raise no revenue, in Valuation Rolls.

Q2 Should Councils have a new flexibility to introduce and fund relief schemes to reflect local circumstances and priorities?

As stated above, the SAA believes that any relief scheme should be made available in a co-ordinated manner which supports policy. The balance of governmental/local control over the income received from non-domestic rates and implementation of policy through exemptions and reliefs is a matter for policy makers.

It is obvious, however, that to allow a proliferation of local schemes is likely to be at odds with the principles of taxpayer convenience and efficiency contained in the Ministerial Foreword to the consultation.

Q3 What do you think the impacts on recipients would be if relief thresholds were confirmed for a number of years in advance?

This is likely to provide ratepayers with the benefit of certainty of taxation level and permit better financial planning.

Q4 Should the way reliefs are funded change, for example the split between the Scottish Government and Councils for discretionary reliefs?

No view.

Q5 Where relief is awarded to properties in the public sector, should this be handled differently, for example subject to separate reporting arrangements?

No view. Note, however, that if subjects (e.g. public parks) are to remain exempt from entry in the valuation roll there is no mechanism possible to report on the extent of relief. Further, given the proliferation of charities, government agencies, trusts and arms length external organisations, there are significant difficulties in identifying the 'public sector'.

Q6 Please provide details of any other suggestions as to how the rating system could be improved to support growth?

Use of the non-domestic rating system to support growth is a policy matter on which the SAA wishes to offer little input.

As the process of rating valuation follows market trends, however, it is an inherent feature of the system that increased taxation levels, or at least increased Net Annual Values, will be a consequence of economic growth. The opportunity to support growth through valuation for rating is, therefore, very limited.

The SAA does see some scope, however, in the bringing into effect of any increased liability resultant from physical change. Currently such changes are effected in Valuation Rolls immediately on completion of works/occupation but, historically, such increases in rateable value were not

effected until the start of the following financial year, giving ratepayers some opportunity for financial planning and, arguably, incentive to expand. Whilst mechanisms would need to be put in place to avoid any delay in effecting values becoming an opportunity for further evasion or failure to co-operate with information requests, a delay in effecting rates increases of either a fixed period or until an established future date might provide some incentive for property improvement/growth.

Q6a – Would there be any costs associated with your suggestion and if so how could these be recouped within the rating system?

There would be a cost in implementing the above which would vary dependent upon the amount and timing of development in any particular year. The SAA would be happy to work with government in estimating such costs, based on previous experience.

Q7 What are your views on transitional relief at 2017 and future revaluations?

The SAA considers that the introduction of a transitional relief scheme for the 2017 revaluation is a question for policy makers, and may ultimately depend upon the anticipated increases / decreases in rates bills as a result of the revaluation which can only be determined closer to the time. The Association notes, however, that one of the primary purposes for carrying out Revaluations is to redistribute taxation levels in line with open market property values. Any relief scheme which alters that redistribution, therefore, has a distortive effect on the process. Transitional relief does also have a negative effect on the transparency of any Revaluation to ratepayers.

Other existing reliefs, including the small business bonus scheme, may address much of the *raison d'être* for a transitional scheme. The introduction of a transitional relief scheme, in addition to existing reliefs, may add a significant level of complexity and cost to the calculation of rates bills.

In the context of the next Revaluation in 2017, it is considered that there would be inherent difficulties in implementing any scheme following a recession, particularly if it were to be self-funding to any extent.

As discussed at Q1 above, the granting of any relief has the ability to distort the rental basis upon which the rating tax is based. In this respect the SAA is of the view that, if there is to be one, any transitional relief scheme should be constructed in such a way as to “run out” before the date of the next revaluation and, in order to ensure that the rental base is not distorted by the impacts of the previous transitional relief scheme, preferably before the ‘tone’ date for that revaluation.

Q 8 What are your views of the current appeals system?

The SAA considers that the existing appeals system in Scotland has worked effectively for many revaluations. Appeals are disposed of for most ratepayers within satisfactory timescales (61% of 2010 Revaluation appeals were disposed of within 2 years of the Revaluation taking effect and 72% were disposed of within 2 years of the last date for submission of appeals) and the system has disposed of virtually all appeals by the statutory deadline. This has major benefits in entering the

next revaluation with a stable rating base upon which to re-value properties and thereby minimising the risk of significant appeal loss. The system can be contrasted with that in England which has changed numerous times and nevertheless continues to leave large numbers of appeals outstanding prior to each revaluation being introduced.

Nonetheless, the SAA does believe that the system could be improved with the aim of reducing the timescale for disposing of Revaluation appeals. One opportunity to do so would be to shorten the time period within which appeals can be made following a Revaluation. Currently ratepayers may appeal between the 1st April and 30th September in any Revaluation year with disposal of appeals not being practical until after the last date for submission of appeals. The SAA believes that this leads to undue delay in appeal disposal. If the deadline were brought forward to, say, 30th June in the Revaluation year, disposal could commence at a much earlier date.

To ensure that this change resulted in no prejudice to ratepayers, the above proposal could be coupled with a requirement on Assessors to 'make up' (see later) and publish Revaluation Rolls at an earlier date than is currently required and for ratepayers to have the opportunity to submit appeals from that date (i.e. in advance of the Revaluation coming into effect).

It is of critical importance that any appeals system in Scotland should have;

- a) clear and unambiguous deadlines within which all revaluation appeals must be lodged,
- b) a requirement for clearly defined reasons and time limits for the lodging of material change of circumstances (MCC) / error appeals, and
- c) a clearly defined statutory deadline for the resolution of appeals.

It is accepted that the appeals process in Scotland has been strained in recent years by the incidence of a very high number of appeals arising from the recent exceptional economic circumstances. However, it is noted that recent judicial decisions have clarified various related issues and assisted the administration of the process.

The SAA also believes that the appeal procedures could be made more efficient by the facilitation of electronic exchange of all correspondence throughout the appeals procedures (see response to Q9 later).

The provision to have appeals determined by either a Local Valuation Appeal Committee or by the Lands Tribunal for Scotland in the first instance before progressing to the Lands Valuation Appeal Court is an appropriate and efficient procedure and should be retained, though there may be scope for increasing the capacity of Appeals Panels. It can be contrasted with the English system of having an appeal heard by a Local Tribunal (Committee) and then by the Lands Tribunal before progressing to the higher courts which is a significantly more costly and extended process.

The provision in Scotland to refer appeals to the Lands Tribunal for Scotland can sometimes delay the hearing of appeals beyond the statutory timetable and may be used as a means of securing a delay in the resolution of the appeal. However, this must be balanced against the requirement to have genuinely complex appeals heard by the Lands Tribunal rather than a Committee. The Lands

Tribunal has ultimate discretion over whether to accept an appeal or not and, should it be considered that the process is being abused, it is anticipated that this discretion will be exercised appropriately.

In terms of the specific points raised by the consultation paper aimed at reducing the number of speculative appeals, the SAA would comment as follows:

- 1 Introducing an element of risk that allows the rateable value of the property to be increased as well as reduced at appeal:

This suggestion would be welcomed by the SAA. It would be appropriate to allow an Assessor/ Valuation Appeal Committee / Lands Tribunal / Lands Valuation Appeal Court to increase a valuation where it is found that the valuation is understated. (See also later proposal to expand the 'correction of error' provisions)

- 2 Charging a small fee which could be linked to the Rateable Value of the subject?

If fees were introduced it would be important that the fee is set at a level which deters the lodging of speculative appeals but is not at such a level as would prevent ratepayers with a genuine grievance from seeking redress. Fees should be non-refundable.

- 3 Limiting number of appeals for any property.

This suggestion would not be welcomed by the SAA. There may be many and diverse reasons for lodging appeals and it is considered that it would not be practical to set a numerical limit which would prevent unnecessary appeals being lodged while allowing genuine appeals to be made. However, reference is made to the SAA's comments on appeals below.

- 4 Varying the time frame to lodge appeals or the scope of lodging.

Subject to the proposed shortening of the timescale for lodging Revaluation appeals (above) and the comments which follow at Q9 (below), the SAA considers that the existing time frames within the relevant legislation are appropriate to meet the needs of the rating system.

- 5 Penalties for those failing to provide evidence to the Assessors about their properties.

See comments below.

Q9 Other reform of the appeals system that you think would be beneficial to businesses. For example, how could the process be improved or speeded up.

- 1 Provision of information:

The cornerstone of the rating system, and any rating appeals system, is the Assessor's power to access appropriate information in order to arrive at an accurate assessment of Rateable Value. It is only by having this information available to the Assessor in arriving at the Rateable Value, and to

the appeal body in considering the accuracy of that assessment, that the correct Rateable Value will be ascertained.

The SAA considers that the terms of S7 of the Lands Valuation (Scotland) Act 1854 (Assessor may call for “a return containing such particulars as may be reasonably required for the purpose of enabling him to value the lands and heritages”) is inadequate to meet the requirements of the system. It is severely limited by virtue of being served on the proprietor, tenant or occupier for the purposes only of valuing the lands and heritages of which that person is the proprietor or tenant or occupier and is further hampered by both the method of enforcing the provision by summary conviction and by the outstanding pressures on Procurator Fiscals which result in little prospect of convictions being successfully pursued. The SAA considers that this provision should be radically widened and this issue is discussed in greater detail at Q12 below. However, in the context of appeals, the SAA would wish to see an express provision within the Appeal Procedure Regulations to state that a Valuation Appeal Committee or Lands Tribunal may dismiss an appeal (whether before or after it has heard submissions in the appeal) where it can be demonstrated that the ratepayer or his/her agent has failed to provide information reasonably requested by the Assessor.

Further, the powers of the Valuation Appeal Committee to require provision of documents and information by the parties to an appeal should be made explicit in clear, modern terms.

2 Reasons to be provided for Material Change of Circumstance and Error Appeals:

In the context of material change of circumstance and error appeals the SAA would wish to see a provision requiring that the specific, detailed reason(s) for the lodging of the appeal be included when the appeal is lodged. This provision should serve to prevent appeals being lodged on an entirely spurious or speculative basis. However, this is felt to be unnecessary for revaluation appeals.

3 Definition of Material Change of Circumstance and Tone of the Roll:

It has become apparent during the course of the current recession that the definition of material change of circumstance as set out within s37 of the Local Government (Scotland) Act 1975 and the terms of s15 of the Local Government (Scotland) Act 1966 – Valuation according to tone of the roll - are inadequate to meet the demands of modern economic times. The SAA consider that each of these provisions should be reviewed.

These sections have been enacted and amended in a piecemeal fashion over many years to the extent that the overall intention of what is sought to be achieved is unclear. In reviewing these sections the SAA would welcome a clear policy statement as to what is to be achieved. Essentially policy makers should clarify that the basis for all rateable values should either:-

- (a) be set at the “tone” level and that these levels should remain fixed for the duration of the valuation roll or
- (b) vary (reduce) when rental levels fluctuate from (fall below) the tone level?

The SAA considers that maximum uniformity, equity and certainty in rating assessments will be achieved by providing that the tone level of value should pertain throughout the life of the valuation roll. This approach could follow that currently in place in England by virtue of Schedule 6 of the Local Government Finance Act 1988. Alternatively it may be achieved by reverting to the pre 1984 definition of a material change of circumstances.

4 Funding for Local Valuation Appeal Panels and Committees:

Current legislation prescribes that the expenses of Local Valuation Appeal Panels and Committees should be defrayed by the appropriate Council or Valuation Joint Board (Valuation Appeal Panels and Committees (Scotland) Regulations 1996). In practice these expenses tend to be met from within the budget of the relevant Assessor. Appeal Panels and Committees are appointed and answerable to the Sheriff Principal, and Joint Boards and Councils will normally have mechanisms for ensuring that the provision of funding in this way has no bearing upon the independence of the Panel or Committee. Nevertheless this arrangement may give a negative perception of the independence of the Panel or Committee. Transparency would be improved by direct funding of Panels and their Secretaries by Local Authorities, the Sheriff Principal or the Scottish Government.

It is clear that there are significant demands on the members of Appeals Panels and this can/could result in problems with recruitment/retention of panel members and ensuring that Committee hearings are quorate. The non-payment of Panel members may therefore be a matter which would benefit from review.

5 Appeal disposal timetable

See comments above re the proposed shortening of the timetable for making Revaluation appeals.

Currently there is uncertainty in respect of the remedy for appeals which are not disposed of in accordance with the current timetable. Explicit provision should therefore be enacted.

6 Electronic Communications

The 1995 Valuation Appeal Committee (Procedures in Appeals under the Valuation Acts)(Scotland) Regulations make specific provision (S3) for appeals to be lodged and withdrawn electronically. However, there is no equivalent legislation for either the serving of citations or the exchange of grounds and comparisons electronically. It would improve efficiency if all correspondence, submissions and representations covered by the Regulations could similarly be exchanged electronically.

Q10 In what ways do you think the transparency and openness of the rating system could be improved?

The SAA considers that the existing rating system is particularly transparent and open. The Valuation Roll which displays the Rateable Values upon which the tax is based is a public document and is freely available to the general public and all stakeholders. It is available for inspection at Assessor's and Local Authority offices, at public libraries and on the internet via the Assessors' web site (www.saa.gov.uk) and is available for purchase in either paper or electronic

form. Valuation Notices are issued detailing all changes to the Valuation Roll and such changes are reflected in weekly updates to the Assessors' web site. Details of the functions of Assessors, Rating Authorities and Scottish Government, including details of appeal procedures, exemptions and reliefs are widely available via the Assessor's websites, the SAA web site and the Scottish Government websites. The SAA also publishes over 100 Practice Notes detailing the approach to the valuation of a wide range of subject types.

Ratepayers are entitled to appeal (within specified time limits) against entries of which they are the proprietor, tenant or occupier. In addition interested persons can complain (within specified time limits) that other subjects are incorrectly assessed. In either event, full justification of current valuations will be provided.

In recent years the openness and transparency of the rating system has been significantly enhanced by the provision of summary valuations for the majority of subjects (currently circa 65%) which may be viewed on line via the Assessors' web site. It is/was anticipated that this facility should provide a mechanism for ratepayers and their representatives to audit the accuracy of their Rateable Value before determining whether to lodge a formal appeal, thereby streamlining the process and preventing unnecessary expense.

The clear aim of the Scottish Assessors' Association is to enhance this transparency further by providing more summary valuations at the SAA web site. However, this process has been placed in abeyance due to a lack of the additional funding necessary to undertake the required development work. The SAA would suggest that additional funding be sourced to allow this process to continue.

In addition to the above, Assessors themselves, Councils and Joint Boards provide further transparency or are subject to scrutiny through vehicles such as:-

- The publication of Annual Reports, Board/Committee Minutes and Public Performance Reports.
- Submission of Key Performance Indicators and other statistical data to Scottish Government.
- SAA meetings with the Scottish Ratepayers Forum, the Scottish Business Rating Surveyors Association and a host of other trade and representative bodies.
- The internal and external audit requirements of the Auditor General/Accounts Commission.
- The requirements of the Freedom of Information regime.

Whilst the SAA would be happy to work with ratepayers and government to improve any perceived shortfalls in transparency and accountability, it should be noted that additional reporting requirements are likely to have resource implications and could, potentially, compromise the independence of assessors.

Q11 Do you support the general principle that tax avoidance in the rating system should be closed wherever possible?

The SAA wholly supports the principle that tax avoidance in the rating system should be closed wherever possible.

Q11A The SAA considers that the rating system, in its basic form, is a very robust and efficient tax system. It is particularly difficult to avoid rates assessment because it relates to heritable property that cannot normally be hidden or moved. The SAA considers that the robustness and efficiency of the rating system would be improved further if additional powers to gather information were made available to Assessors as discussed below.

The creation of relief schemes or exemptions may provide opportunities for occupiers to legitimately alter their mode of occupation in order to maximise the benefit to be gained from relief or exemption. For example, an occupier may choose to structure his business into two separate companies and organise his occupation of premises in such a way as to ensure that each company secures the maximum benefit from the Small Business Bonus Scheme. Similarly larger organisations, e.g. Councils, may choose to create arms length organisations, such as Leisure Trusts, in order to benefit from charitable relief.

Q12 Do you have other comments you wish to make in relation to business rates?

The SAA has identified a number of points where it is considered that the existing rating system may be improved or enhanced. These points are noted below:

1 The procedure and legislation for entering new entries in the Valuation Roll:

Section 2(1)(b) of the Local Government (Scotland) Act 1975 makes provision for Assessors to enter “lands and heritages which have come into existence or occupancy since the roll was made up” in the Valuation Roll. This language is imprecise and, when read together with the section 3 of Schedule 3 to the Local Government (Scotland) Act 1966 (which makes provision for rating authorities to serve a completion notice where it is of the opinion that the erection of a new building is or can reasonably be expected to be complete within three months), can lead to difficulties as shown in the Court of Session (Outer House) case of *Cosmpolitan Bellshill Limited and Almondvale Investments (Jersey) Limited v North Lanarkshire Council* 2012.

It may be more appropriate if the provisions of section 3(1) of Schedule 3 to the 1966 Act were made applicable to the Assessor rather than the Rating Authority, which would bring the practice into line with the procedures for completion of new dwellings established by s83 and Schedule 6 of the Local Government Finance Act 1992.

2 The requirement to alter the Valuation Roll to correct an error :

Section 2(1)(f) of the Local Government (Scotland) Act 1975 makes provision for Assessors to alter the Valuation Roll to correct an error of measurement, survey or classification or any clerical or arithmetical error in any entry therein. However, recent judicial interpretation of the Lands Valuation Appeal Court (*Trustees of the National Gallery of Scotland v Lothian Assessor* 2010) limits the scope of the provision to errors which are empirically verifiable and which predate the entry and caused the error to be made. The SAA believes that these limitations can result in anomalous and inequitable outcomes and suggests that legislators consider whether the correction of a wider range of errors would provide greater equity and fairness.

The SAA also notes the interaction between the powers/requirement of Assessors to alter the roll conferred by section 2(1) Local Government (Scotland) Act 1975 and the rights of appeal of ratepayers conferred by section 3(4) of the same Act and would be willing to work with legislators to ensure that any extension of the powers of assessors to correct matters which are quite plainly wrong would not necessarily provide new opportunities for the submission of, often speculative, appeals.

3 The state of repair provisions:

Section 6(8) of the Valuation and Rating (Scotland) Act 1956 defines the Net Annual Value (and consequently the Rateable Value unless any specific form of de-rating applies) as “the rent at which the lands and heritages might reasonably be expected to let from year to year if no grassum or consideration other than the rent were payable in respect of the lease and if the tenant undertook to bear the costs of the repairs and insurance and other expenses, if any, necessary to maintain the lands and heritages in a state to command that rent”.

The framing of the legislation has been described as containing a circularity in respect of the maintenance and state of repair provisions. Similar uncertainties arising in England led to the introduction the Rating (Valuation) Act 1999 which provided that the subject is assumed to be in a state of reasonable repair, but excluding from that assumption any repairs which a reasonable landlord would consider uneconomic. It may be appropriate to introduce a similar ‘state of reasonable repair’ provision to that currently in force in England.

4 Information gathering powers:

As noted above, the cornerstone of the rating system is the Assessor’s power to access appropriate information in order to arrive at an accurate assessment of Rateable Value.

The existing provisions contained with S7 of the Lands Valuation (Scotland) Act 1854 (Assessor may "call upon any person, being a proprietor or reputed proprietor or tenant or occupier....for a return containing such particulars as may be reasonably required for the purposes of enabling him to value the lands and heritages of which such person is proprietor or reputed proprietor or tenant or occupier) are considered to be inadequate to meet the requirements of the system. It is severely limited by virtue of being applicable only to being served on the proprietor, tenant or occupier for the purposes of valuing the specific lands and heritages of which that person is the proprietor or tenant or occupier and is further hampered by both the method of enforcing the provision by summary conviction and by the outstanding pressures on Procurator Fiscals which result in little prospect of convictions being successfully pursued. The practical effect of this limitation is that in many cases the necessary information is delayed or simply not provided to the Assessor and this significantly weakens the accuracy and robustness of the taxation system.

The SAA considers that the existing provisions of S7 of the 1854 Act should be extended considerably to give much wider ranging powers to the Assessor. Examples of the more modern application of appropriate powers of Assessor in relation to Council Tax may be found in S90 of the Local Government Finance Act 1992. Further examples in relation to Electoral Registration Officers may be found in S23 of the Representation of the People (Scotland) Regulations 2001.

In particular, the SAA believes that the powers of the Assessor should be extended to include the power to seek documents and information:-

- For the purposes of valuing lands and heritages other than the lands and heritages of which the person is proprietor or reputed proprietor or tenant or occupier.
- From persons who hold, or have access to, the relevant information other than the proprietor or tenant or occupier. This should include contractors, agents, developers and other advisors in line with current funding, procurement and development practices.
- Which the assessor considers are/is necessary for the purposes of making entries in the valuations roll, maintaining the valuation roll and for the present or future consideration of valuation approach/method.
- After any entry in the valuation roll is made.

All existing information provision powers rely, however, on the summary conviction of a person found guilty of failing to comply with a request for information being liable to a fine on the standard scale. As such these provisions suffer from the same difficulty of pursuing prosecutions by the Procurator Fiscal. It may therefore be appropriate to consider the introduction of a procedure of civil penalties as provided for in England by Para 5(1) of Schedule 9 to the Local Government Finance Act 1988. There would be

practical and administrative issues in implementing such a system and there is only limited evidence of the civil penalties approach being successful.

An alternative approach might be to provide Valuation Appeal Committees and the Lands Tribunal with powers to set penalties for non-provision of information which are related to the rateable value of the subjects involved.

Improved information gathering powers would provide the assessor with more information on which to base more accurate valuations which, in turn, should lead to less risk of under valuation or loss on subsequent appeal.

The SAA does accept that collation of some information, especially when complex properties or 'third parties' are involved, may take longer than the 14 days provided for making a return in the current legislation and would be sympathetic to a review of that timescale.

5 Tone of the Roll – application to utilities:

The provisions of S15 of the Local Government (Scotland) Act 1966 (Valuation according to tone of the roll) do not apply to public utility undertakings. This gives rise to a number of problems where the valuation of a public utility is required to be amended during the currency of the Valuation Roll. The SAA recommends that, having been returned to conventional valuation in all other respects, the tone of the roll provisions should also apply to public utilities. (See also response 9 below re Utilities)

6 The date the Valuation Roll is made up:

There is a lack of clarity in the terminology adopted in S1 of the Local Government (Scotland) Act 1975 concerning the date at which the Valuation Roll is 'made up'. This lack of clarity is discussed by the Lands Valuation Appeal Court in the case of Assessor for Fife v Mercat Kirkcaldy Ltd and Others (2012) and the Lord President expressed a view that this should be taken to be the date of delivery of the Valuation Roll to the rating authority (i.e. 15 March in the year before the year of revaluation). This interpretation, or some other policy intention, should be confirmed in legislation for the avoidance of doubt in future revaluations by defining the meaning of "the date when the roll is made up" perhaps within the interpretation clause contained at S37 of the Act.

In line with the above, and given the suggestion to review appeal timetables made elsewhere in this response, there may also be merit in giving detailed thought to the need for, and definitions of, the tone/valuation date, physical state date, the revaluation roll 'coming into effect' and the power to lodge appeals.

7 3-Yearly Revaluations:

In theory, shorter periods between Revaluations would be more reactive to market conditions, should normally result in smaller fluctuations in Net Annual Value and would provide the system with more credibility (See Bayliss Report entitled “Improving the Rating System”, published by RICS). In the longer term, therefore, policy makers may wish to consider 3-yearly Revaluations.

This would however, have very direct effects on the resources required by Assessors, the capacity of the whole rating system, the appeals disposal timetables and Harmonisation with other administrations within the UK. It would also impact on the ability of ratepayers to financially plan over the longer term.

8 Plant & Machinery:

The Valuation for Rating (Plant & Machinery)(Scotland) Regulations 2000 (as amended) which prescribe the classes of plant and machinery for inclusion within the definition of “lands and heritages” are, in several regards, dated and, in the context of a complete review of reliefs and exemptions, would benefit from review/revision.

In particular, the different treatment required of plant and machinery used for the purposes of generation, storage, transformation or transmission of electricity for ‘own use’ as opposed to ‘distribution and sale to customers’ and the effective exemption provided to unbundled local telecommunication loops arising from The Non-Domestic Rating (Telecommunications and Canals) (Scotland) Amendment Order 2008 should be revisited.

9 Designated Utilities

There are a number of inconsistencies across the definitions of the subjects contained within The Non-Domestic Rating (Valuation of Utilities)(Scotland) Order 2005 (as amended) and they have resulted in the perception of unfairness in some instances. These inconsistencies, which refer primarily to the ‘ancillaries’ to be considered as part of the designated subjects, are highlighted in Appendix B and may benefit from a consolidation.

Further, the current wording at Sections 2(1)(a), 2(1)(b), 3(1)(a) & 3(1)(b) of the Order infer that an office building which has ancillary purposes to generation, transmission and distribution of electricity would not be included in the designated valuation roll entry where the office is occupied by the umbrella group. It is doubtful that this was the intention of the legislation.

The wording of, and the interactions between, the 1995 Non-Domestic Rating (Telecommunications and Canals) Order and the amended 2005 Utilities Order are of concern, particularly as the line between ‘Fixed Line’ and ‘Other’ Telecommunications operations becomes less well defined. It may be that designation of Mobile Communications subjects would therefore be worthy of further consideration.

If the utilities regime was thus amended, the resources of the relevant designated Assessor would require to be reviewed. In any event, it should be noted that designated Assessors are resourced, at best, only for the valuation and maintenance of designated valuation roll entries. Funding for appeal efforts, which could be exceptional, is entirely insufficient, leading to the potential risk of loss of significant value on appeal.

TOP TEN RISKS REGISTER March 13

| Risk Description | Category | Likelihood | Impact | Product | Mitigation & Controls | Residual Risk | | | Treatment | Responsibility | Further Action | Allocation | Action Date | |
|------------------|--|------------------|--------|---------|-----------------------|---|--------|---------|--|----------------|--|---|---|---|
| | | | | | | Likelihood | Impact | Product | 1 Tolerate 2 Treat 3 Transfer 4 Terminate | | | | | |
| 1 | Lack of clarity over referendum date. | ER | 10 | 10 | 100 | Prepare a variable timetable. | 10 | 10 | 100 | | Senior Management Team | Maintain contact with Scottish Government officials | Joan Hewton | Mar 2013 |
| 2 | Probability of large number of credit crunch appeals will cause significant increase in courts and workload. | NDR | 6 | 10 | 60 | Volumes will be monitored closely up to 31 st Match and options discussed by NC and Exec thereafter. Annual lodging of RR appeals causing problems with court numbers. Continue to monitor position. | 6 | 10 | 60 | | Joan Hewton | High number of cases per court over the 18 months to 31st Dec 2013 may necessitate overtime if staff willing. | Nick Chapman/ Graeme Strachan Joan Hewton | Apr 2013 |
| 3 | Introduction of Individual Electoral Registration | Staffing /budget | 10 | 10 | 100 | The introduction of Individual Electoral Registration shall have major impacts on the way we carry out updating processes to the register. It is anticipated that the biggest impact shall be felt in the transitional two-year period during 2014 and 2015. There shall be major impacts on finances, internal processes and procedures, and mail room machinery. It is anticipated that we could be required to handle and process twice as much paper than is normally the case during the transitional period. Consultations are ongoing with and between various organisations on the practicalities and legal requirements surrounding IER and its introduction. The SAA and EMB at which there are ERO representation and individual ERO's are involved in this consultation process. We are therefore able to inform the decision making process and be fully aware of final decisions taken. Within LVJB we have undertaken a Phase 1 Impact Assessment dealing with the implications for the 2014/2015 canvass, highlighting the paper handling requirements and cost requirements to do with printing, postage and door to door canvass. LVJB have also been involved with a Data Matching Pilot scheme under the auspices of the Cabinet Office. This has involved exchanging data with the DWP and is intended to inform the process for | 10 | 5 | 50 | 2 | Joan Hewton, Graeme Strachan & Brian Brown | Undertake a Phase 2 Impact Assessment dealing with the impact on internal process and procedures. When greater clarity is available on the detail of IER produce a specific risk register. Preparation and implementation plans are now available from the Cabinet Office and the process required to "localise" these is underway. These plans shall reflect specific risks. | Graeme Strachan Graeme Strachan Graeme Strachan | Dec 2011 June 2012 March 2013 |

Updated following the Technical Management Meeting 12.02.13

TOP TEN RISKS REGISTER March 13

| Risk Description | Category | Likelihood | Impact | Product | Mitigation & Controls | Residual Risk | | | Treatment | Responsibility | Further Action | Allocation | Action Date | |
|------------------|---|------------|--------|---------|--|--|--------|---------|--|----------------|----------------|---|--------------|-------------|
| | | | | | | Likelihood | Impact | Product | 1 Tolerate 2 Treat 3 Transfer 4 Terminate | | | | | |
| | | | | | <p>future exchanges in support of the IER process. This participation allows us first hand insight into possible future requirements and processes.</p> <p>LVJB continue to be involved with pilot exercises with the Cabinet Office and there is increased participation with the SAA. Information is flowing easily between the parties.</p> | | | | | | | | | |
| 4 | Failure to receive established funding requirement from constituent authorities of the Board, and the impact of the declining economic climate on the funding available to authorities and therefore the Board. | Finance | 7 | 8 | 56 | <p>The ongoing economic slump has put considerable pressure on local authority budgets. Budgets are prepared in three yearly cycles with the current cycle covering the period 2011/12 to 2013/14. Savings targets were identified and met within the Board budget and on that basis funding from the constituent authorities has been provided. Years 2 and 3 of the cycle remain indicative and in light of recent budget announcements by the Scottish government it remains to be seen whether the identified savings shall be sufficient. As part of preparation for potentially greater savings requirement that may involve staff reduction, a reserve fund has been established that would assist with early retiral and redundancy payments.</p> <p>Budget monitoring is undertaken monthly with reports provided to the management team. This assists with budget projection when combined with information on future service requirements.</p> <p>A Flat Cash position has been set for 2013/14 and 2014/15. While agreement has been reached over the 2013/14 budget concerns exist about further flat cash years.</p> | 7 | 6 | 42 | 1 | Joan Hewton | If necessary consider legal action to ensure funding provided to a level to enable satisfactory discharge of statutory functions. | Joan Hewton | As required |
| 5 | The volume & complexity of appeals cited for 2011 may impact on other work or may not all be heard on cited date. | NDR | 8 | 8 | 64 | <p>Technicians to carry out tasks within their capability/remit.</p> <p>Counsel to be used if cases considered complex.</p> | 8 | 5 | 40 | 3 | Nick Chapman | Exchange of letters, grounds and appeals to be discussed | Nick Chapman | Apr 2013 |

Updated following the Technical Management Meeting 12.02.13

TOP TEN RISKS REGISTER March 13

| Risk Description | Category | Likelihood | Impact | Product | Mitigation & Controls | Residual Risk | | | Treatment | Responsibility | Further Action | Allocation | Action Date | |
|------------------|---|------------|--------|---------|--|--|--------|---------|--|----------------|------------------|--|------------------|----------|
| | | | | | | Likelihood | Impact | Product | 1 Tolerate 2 Treat 3 Transfer 4 Terminate | | | | | |
| | | | | | Attempt made to agree a shortened timetable with the agents which was not successful. Continue to monitor position. | | | | | | | | | |
| 6 | Trade Union Activity. Trade Union activity is at its most damaging to service delivery when it involves the removal of staff resource. This can be undertaken in a number of ways. Staff could strike for one off days, a set number of days, days spread over a period of time, or the targeting of critical time periods. They can remove certain activities, for example the use of cars. Any number of ways could be employed to cause disruption. | Staffing | 7 | 7 | 49 | Given the current economic climate and the freezing of pay, it is felt that trade union activity is more likely than it has been in the past. Risk scores have been amended accordingly. Regular and formal meetings (JCC) are held between trade union officials and the senior managers to ensure clear communication. This allows an awareness of possible trade union activity to be known. Critical timeframes and activities are identified throughout the organisation. Where possible every action shall be taken by senior staff to ensure essential service delivery is maintained throughout the periods of union disruption. | 7 | 5 | 35 | 1 | Joan Hewton | Monitor Trade Union reaction to national public spending cuts in order to ascertain at the earliest, possible strike action. | Joan Hewton | Ongoing |
| 7 | Data Matching Pilot | ICT | 10 | 5 | 50 | Considerable involvement by ICT may be required throughout this project. Possible impact on other projects. Continue to monitor position. Final statistics supplied for 2012 Autumn data match. Home movers to be undertaken 1 st quarter of next year. More involvement requested and agreed. Update Mar 2013. | 10 | 3 | 30 | | Bernie Callaghan | Create headline process, identifying major tasks etc. | Bernie Callaghan | Mar 2013 |
| 8 | Legislative changes affecting statutory authority and the discharge of statutory duties. For example the removal of Council Tax and the introduction of an alternative taxation system. A possible review of NDR prior | Misc | 5 | 6 | 30 | Key partnership arrangements with Scottish Government, Electoral Commission, Scotland Office, AEA and SAA. Participation in the consultation and communication process. The current programme for change to Council Tax has been put back to after 2015. We shall continue | 5 | 5 | 25 | 1 | Joan Hewton | Ensure Board members are kept advised of all possible outcomes affecting the organisation and service delivery arising from possible changes to statutory functions. | Joan Hewton | Ongoing |

Updated following the Technical Management Meeting 12.02.13

TOP TEN RISKS REGISTER March 13

| Risk Description | Category | Likelihood | Impact | Product | Mitigation & Controls | Residual Risk | | | Treatment | Responsibility | Further Action | Allocation | Action Date |
|---|----------|------------|--------|---------|---|---------------|--------|---------|--|------------------|---|-----------------------------|-------------|
| | | | | | | Likelihood | Impact | Product | 1 Tolerate 2 Treat 3 Transfer 4 Terminate | | | | |
| to the next Revaluation is also possible. IER is the most current major change as such is identified separately above. | | | | | to monitor the situation and provide advice to government as required. The SAA has formal regular meetings with the Scottish Government and through that we able to inform the decision making process. | | | | | | | | |
| 9 Reval and MCC appeals against the 2010 VR from 1 st April could cause potential difficulties with scheduling hearings and ability to carry out other work. | VR | 8 | 6 | 48 | Review allocation of workload where required. Consider utilising technician staff where possible. Appeal disposal timetable now in force. 13/1/11 Courts organised to end of 2011 and good progress being made. Techs now carrying out minor ndr surveys and simple appeals. TSO/TSA tasks being monitored on fortnightly basis. Courts organised until end 2012 with increased numbers. Tech's continuing to assist. 31 Court citation strategy organised until December 2013 with all appeals to be listed by end June 2013. | 8 | 3 | 24 | 2 | Joan Hewton | MCC deadline for 2005 appeals passed and courts/distribution of workload determined Dec 2010 The last date for receiving bulk MCC appeals against the 2010 VR is 31 st March 2011. Once this date is passed undertake an assessment of numbers lodged and reconsider current appeal disposal timetable as appropriate. 13/1/11 Appeals starting to be received in last week, volumes still unknown March 2011. Approx 7,500 appeals now being received annually. Court numbers again increased. | Joan Hewton Nick Chapman | Apr 2013 |
| 10 Internal & external malicious damage leading to ICT file corruption at key statutory times | IT | 4 | 8 | 32 | Virus software continually updated. Firewall; Network/application controls; Audit procedures. BCP. A mock Disaster Day has been conducted by the senior team and as a result a revision of the BCP is underway. | 4 | 5 | 20 | 2 | Bernie Callaghan | The BCP is currently under review. | Graeme Strachan | March 2013 |