HM Treasury Fundamental Review of Business Rates: Call for Evidence

The Heritage Alliance Response

The Heritage Alliance

4.1 Valuations and transitional relief

10 What are your views on the frequency of revaluations and what changes should be made to support your preferred frequency?

Studies have concluded that more frequent valuations would be beneficial and would ensure that the tax base is more relevant to the economic circumstances when the tax is being paid. Currently, the Government has announced that the 2017 rating list will not be replaced until 1st April 2023, by which time the valuations will be eight years out of date. Similarly, the 2010 list was nine years out of date before being replaced. The failure of rating lists to update more frequently has left retail properties with excessive levels of value causing the requirement for reliefs aimed at that sector inevitable in order to prevent closures. Had the rating list been replaced in 2015 or earlier, the impact of the 2009 recession would have been taken into account much sooner, thus reducing the pressure on the retail sector. Many heritage organisations have retail as part of their offer.

A major element of current dissatisfaction with business rates is the lack of correlation between the tax and the actual rental value. For properties evaluated by the receipts and expenditure method, annual revaluation would be preferred. This would properly reflect increases and decreases in enterprise. It should be noted, however, that rateable value (RV) on 'receipts and expenditure' provides a disincentive to growth in enterprise. Increasing the frequency of revaluations and reducing the gap between the ad valorem stamp duty (AVD) and the commencement date of the revaluation would further improve the correlation between the tax and the prevalent market conditions when the tax is levied.

11 What are your views on a banded or zone-based valuations system and the trade off with valuation specificity?

Heritage sites are unique properties in very disparate locations, ranging from major city centres to remote rural locations. No banding or zoning approach could deal with this category of property without introducing gross inequity to the system. The banded or zoned approach overlooks the individuality of heritage organisations and their disparate sites which need to be valued on an individual basis.

12 What are your views on changing the valuation process or the information provided to the VOA, to enable more frequent revaluations?

We welcome more frequent valuations for the sake of accuracy, but not the uncertainty that revaluation brings. This uncertainty relates to the following:

a. Uncertainty over the likely level of the rateable value significantly in advance of the start of the new Rating List.

b. Uncertainty over the business rates multipliers used, which are frequently not published until just before the effective date.

The draft rating lists are currently prepared by June in the year preceding the revaluation and the lists are then handed over to the Treasury and later to the billing authorities before being published in draft format. By shortening the period allowed between completion of the draft list and its coming into force, the time required for the revaluation cycle could be shortened.

Shorter revaluation cycles and a short lead-in period for the AVD would reduce the amount of market change that must be accounted for in the revaluation and should therefore make the exercise simpler and more efficient. In addition, if the VOA collected evidence on a continuous basis there would be less requirement for rushed analysis at the start of each new revaluation cycle. The collection of evidence could be set as an annual return.

13 What are your views on the relative importance of the period between the AVD and compilation of the list vs. more frequent revaluations?

In order to make the tax more relevant to the economic circumstances at the time in which the tax is paid, both the shortening of the period between revaluations as well as the period between the AVD and the commencement date of the rating list are important. Of greater importance is the delay between AVD and commencement of the new list. This is clearly demonstrated by the unfair distribution of liabilities during the life of the 2010 rating list, which was based on values set before the impact of the recession but lasted for the whole of the period of recovery from the recession.

Under the current system, with a two year lead-in from AVD to revaluation, information which is five or more years out of date will be applied to the valuation. Reducing the gap to one year would mean that the oldest information of relevance will be four years prior to the revaluation, and any trends demonstrated by the accounts will also be more relevant to the revaluation date.

The longer life of a rating list provides a higher degree of certainty for future budgeting, but if the rates liability is excessive and out of touch with the market, then it produces a longer period of adverse conditions which can threaten the viability of the site. Equally, if the liability is too low, then the adjustment at the next revaluation is likely to create its own difficulties. It is preferable to have shorter revaluation periods and consequently smaller adjustments.

We advocate for a reduced period of one year between the AVD and the commencement date of the next revaluation; and a three year period between revaluations.

14 What are your views on changing the definition of rents used in the valuation process? How could this be done in a way that most fairly reflects the value of the property?

In order to respond to this question it is first necessary to understand the current definition of rateable value and recent decisions of the Supreme Court and Upper Tribunal (Lands Chamber), especially when considering the extent to which hypothetical considerations should override reality. It is also necessary to consider the reality of the museum and heritage sector.

The basis of the rating hypothesis is very similar to the general assumptions in a full repairing and insuring (FRI) lease, including the assumptions regarding use (or mode or category of use as set out in the para 2 Schedule 6 of the Local Government Finance Act 1988).

The only issue that is unclear in the definition of rateable value is the length of the hypothetical term of the letting. It is standard practice for the rent review clause in a lease to

define the assumed term when determining the new rent. The definition of rateable value refers to a letting from year to year; historic case law modifies this with the assumption of a reasonable prospect of continuance. This is very vague, and what is a reasonable prospect will vary from sector to sector of the property market.

The level of rent payable will depend upon the length of the lease or the length of time between reviews. It may therefore be sensible to define the hypothetical term as being five years, in line with the most common rent review pattern in the market. This is unlikely to make any difference to the valuation of properties such as shops and offices etc. where the evidence on which the rateable values are based are from five yearly review pattern lettings.

In the charitable heritage sites, museum and galleries market, there are few lettings and most of those are not on FRI terms, therefore there is no market norm against which to consider what is a reasonable prospect of continuance.

For our members that are historic house businesses, as those that are charities, the hypothetical rent of an ought to account for the cost of ongoing long term repairs and annual maintenance to protect the heritage site. Most of these organisations, especially those run as businesses, or the commercial arm of a charity, are fragile. Bills and repair costs are significant. Our member, Historic Houses, estimates their members spend £60,000 per year average on repair and maintenance, without taking into account the backlog of work that could be done.

15 If you have had concerns over the specific method of valuation applied to your property, what were these concerns and how could the process be improved?

Museums form a significant part of our membership, and there has been a recent decision of the Upper Tribunal (Lands Chamber) dealing specifically with the valuation of museums and the appropriate method of valuation to be adopted: Stephen G. Hughes (VO) v Exeter City Council [2020] (the Exeter decision). The dispute related to the valuation of the Royal Albert Memorial Museum (RAMM) in Exeter in respect of the 2010 rating list. The VOA was refused leave to appeal to the Court of Appeal and so this decision is final and binding. This decision also fully supports an earlier decision of the Upper Tribunal in the case of Stephen G. Hughes (VO) v York Museums and Gallery Trust.

It is agreed between the VOA and the sector's professional representatives that there is no body of rental evidence that can be analysed and used to value other properties. The vast majority of museums are freehold and those which are held on leases are often let at nominal rents or low rents with the landlord taking responsibility for some or all repairs, insurance and other costs that the rating hypothesis assumes will fall to the tenant. However, that does not mean that the rental evidence cannot be used to inform the valuation process.

This, therefore, leaves two main methods of valuation - receipts and expenditure or contractor's basis. These are not the only methods of valuation available as has been highlighted in the Exeter decision. However, we must draw your attention to an inaccuracy in the information given in para 4.19 of the Business Rates Review Call for Evidence (p19). In the table it is stated that 2% of properties are valued by reference to receipts and expenditure method of valuation. This is incorrect as the vast majority of properties in the rating list valued by reference to receipts – for example, pubs, hotels, restaurants, visitor and tourist attractions and other leisure facilities – are valued on the basis of a percentage of gross receipts with no reference to expenditure. The percentage should be derived from the analysis of rental evidence, or from full analysis of full receipts and expenditure valuations. Where there is no such evidence then there is no basis for this method of valuation. Not all

museums are described as such in the rating lists and so will not be included above. However, with the exception of the 1990 rating list, approximately half of the properties described as museums are valued using contractor's basis. There is no apparent correlation in respect of size, age or other criteria to determine why a particular method of valuation has been adopted. There is however a stark contrast in the outcomes of using different methodologies.

The use of contractor's basis, as currently applied by the VOA, does not allow for the ability to pay the occupier, the requirement for grant funding to enable developments of new museums or works of improvement, or extension of existing museums and a number of other relevant factors. Grant funding is central to the health and success of the heritage sector. These issues are all highlighted in the Exeter decision. The VOA have issued revised guidelines for the valuation of museums acknowledging that contractor's basis is not appropriate to value 'historic' buildings occupied as museums – however, there is no definition of 'historic' and the method of valuation is still in dispute. The VOA have been asked to discuss and potentially agree on the guidelines for valuing museums with sector bodies but have declined to do so.

The Upper Tribunal referred to the potential to consider overbids or bids reflecting socio-economic value to the community as alternative methods of valuation. However, in the Exeter decision, it was concluded that the scale of the losses that the only hypothetical tenant faces in occupying the property is such that the Rateable Value should be £1, a reduction from the previously agreed figure of £445,000 using contractor's method. The issue of an overbid was considered in a Court of Appeal Decision in respect of two National Trust properties in the case of Hoare and another (VO) v National Trust [1998]. In that case, the VOA argued that a Rateable Value of £0 was unlawful and that the rental value, and therefore rateable value, should be based on an overbid of 3% of gross receipts. The Court of Appeal rejected this approach. The properties were inherently loss making and the landlord benefited significantly by having a tenant take responsibility for repairs, maintenance, insurance etc, who would thus not be required to pay rent. There was no evidence to justify the percentage proposed by the Valuation Officer and no reason to assume that the National Trust would use funds from other resources to pay a rent on these properties. The same arguments were considered in the Exeter decision, which carefully considered a wealth of other case law when arriving at the decision.

The question of a bid based on socio-economic gain has two significant hurdles to overcome. Firstly, measuring socio-economic gain is very imprecise as well as a measure of gain to the locality and not the property. There is no mechanism by which the gain to the community can be translated into a rent for the property, and only local governments or similar bodies can benefit from this gain by way of meeting their objectives. Such a method would not apply to museums occupied by independent charities or other bodies. There would therefore be a two-tier valuations system dependent not on the property but on the occupier of the property.
The revised VOA guidance shows a lack of understanding of the museum sector. The process could be improved if the VOA consented to meet with museum sector bodies to agree on the outline of how museums should be valued, with a consistent approach in line with the recent decisions of the Upper Tribunal. It could also then be agreed what information the VOA could reasonably request in order to carry out the valuation process. The VOA have undertaken similar consultation with representative bodies of the pub sector and drawn up a detailed valuation scheme for all public houses in England and Wales – this has led to a general consensus on the valuation of public houses, thus reducing the number of appeals and facilitating negotiated settlements.

For heritage businesses, such as historic houses, the business rates system is inherently flawed by its focus on arbitrary rental values which are not related to the actual profit of a business. The origin of the current system was the General Rate Act of 1967, when a traditional 'premises' was central to the business enterprise; this approach is outdated now that so many businesses operate online, or are operated remotely.

For businesses where RV is calculated upon receipts and expenditure, the current method of applying a percentage discount to arrive at a hypothetical rent is ineffective and inaccurate. This method attempts to calculate a hypothetical rent that is a level playing field with those premises based on actual rent passing, but by applying a fixed percentage discount it fails to account for businesses that are over or under trading on that premises. This particularly affects historic houses, auction markets and other premises where comparable actual rents are difficult to find. We advocate that by exempting properties on the heritage at risk register from the business rates system, heritage owners would be able to do much needed repair and make a positive impact on their local environment. In addition, the Government understanding the long-term repair needs of historic and heritage buildings and taking these into consideration when calculating hypothetical rent would be welcome.

16 What are your views on the design of the transitional relief scheme, and how transitional arrangements should be funded, given the requirement for revenue neutrality?

The transitional relief scheme as currently set out is grossly unfair to occupiers of large properties. The amount of reduction allowed from year to year is minimal, whilst the increases are punitive. At the start of the list for properties with rateable value of more than £100,000, the maximum increase allowed (including inflation) was +44.84%, whereas the maximum decrease (allowing for inflation) was -2.18%. For the middle band of properties of £20,000 to £100,000 the rage was +14.75% to -8.20%. Only smaller properties with values below £20,000 allowed greater reductions than increases with a range of +7.1% to -18.4%. There is no
correlation between the size of the rateable value and the ability of the business occupying the property to cope with increases in liability, nor with the need to reduce overheads.

It is understood that the revaluation process should be fiscally neutral overall, simply allowing for a more equitable distribution of the burden of business rates between different sectors of the economy and different geographical regions of the country. However due to the delay between revaluations the redistribution is extreme. Those parts of the economy that are in greatest need of reduced costs, for example high street retailing do not benefit quickly from the restrictions in reductions. In the case of museums arguably, as demonstrated in the Exeter decision, the problem of transition is secondary to the problem of a large proportion of properties being grossly overvalued, which has been exacerbated by the significant rise in values between the 2010 and 2017 Rating Lists and the very rapid increase in liability due to transition.
There needs to be greater equity between the limitations on increases and the limitations on reductions. Whilst the stated aim is for the transitional arrangements to be self-financing, the perception when there is such a very wide discrepancy between the large increases and the minimal reductions allowed is that the Treasury appears to be profiting from the transitional system.

4.2 Plant and machinery and investment

17 What evidence is there that the business rates treatment of P&M and changes to property affects investment decisions?

We are not aware of any direct link between business rates treatment for P&M affecting investment decisions for museums and heritage. This is because the factors affecting Rateable Values are not well understood generally, and the more esoteric elements of the valuation process such as the rateability of plant and machinery are even less well known. It is therefore unlikely that the impact of investment in new plant and machinery has been taken into account at the planning stage and so the added costs have an even greater impact on finances by virtue of being unforeseen when the investment decisions are made.

However, in the museums and heritage sectors, there is an increasing focus on being self-supporting. Investment in technology that will reduce costs is being considered and decisions on new investment must be supported by properly budgeted considerations of the impact on financial viability. Power generation from renewable resources such as solar panels, wind turbines, water turbines and other energy sources will increase the rates liability for heritage buildings and sites looking to contribute to the Net-Zero initiative and be more sustainable. These changes could impact the rateable value of heritage buildings, and disincentivize the improvements.

18 Are the current P&M principles and regulations still relevant? How could these be updated if necessary, and what would the effect of any proposed changes be?

The current regulations are not well known or understood. However, it would appear that it is not just the museum and heritage sector which lacks the necessary level of understanding. The Supreme Court recently found against the VOA in the case of Iceland v Berry (VO). The Court made clear that the general rule is that P&M is not reflected in the valuation unless specifically included by the regulations. The regulations themselves however can be less than clear because of the lack of specific definitions.

As a simple example, it is agreed that air conditioning is rateable plant and machinery – however there is no such classification in the Plant and Machinery Regulations, although there is reference to heating, cooling and other air handling plant. In addition, systems described as air conditioning vary markedly, from simple cassette systems offering a modest amount of cooling to systems that heat, cool, exchange air, extract dust and pollen, regulate humidity etc. In large part this is due to the specification of relevant items of plant being several decades out of date, which gives rise to misunderstandings. Greater clarity is also required, as demonstrated in the Iceland case, for the exclusion of plant and machinery relevant to the commercial operation of the business rather than the occupation of the building. In the case of museums and heritage sites, spaces are subject to very stringent air conditioning requirements for the preservation of the correct environment for maintaining the conservation of heritage materials such as tapestries, wood, paintings and objects.. Whilst the Iceland case assists in showing that such plant may not be rateable, a clearer definition of what is included in the Regulations as rateable would assist.

The Iceland case considered whether the air handling system was for “manufacturing operations or trade processes” neither phrasing is appropriate to the preservation of historic materials. The consideration of what is excluded from rateable plant and machinery in Class 2 of the regulations is too narrowly focussed on commercial activity and so potentially detrimental to the 3rd sector of the economy to which heritage belongs. This is exacerbated by the VOA adopting an assumption of “if it is named it must be included”, as they did in the Iceland case.
It should therefore be clarified in the regulations, and not in the schedule to the regulations, that rateable value is restricted to named plant and machinery which is wholly intended to serve the hereditament, and not related to the manufacturing or trade processes of the occupier or the preservation and protection of goods and chattels within the hereditament. In that way cases such as Iceland would be avoided, and galleries and museums would not be

penalised for taking steps to ensure that the collections entrusted to their care are properly preserved and protected.

There is little rental evidence for museums, which predominantly shows nominal levels of rent. There is, therefore, no rental evidence from which the added value of rateable plant and machinery can be determined. This creates the risk that adding rateable plant and machinery to the property could have an exaggerated impact on the assessment. For example, based on the outcomes of the Court of Appeal decision for the National Trust's properties Castle Drogo and Petworth House (Hoare (VO) and others v National Trust 1998), and the more recent case in the Upper Tribunal of Hughes (VO) v York Museums and Gallery Trust 2017 and Hughes (VO) v Exeter City Council 2020, have resulted in some museums having rateable values of £0 or £1. Therefore if the starting point is £1 and an addition is made for the addition of renewable energy generating equipment, the plant and machinery would have a greater value than the rest of the hereditament.

19 What evidence is available on the potential benefits of exempting certain types of P&M on a permanent or time-limited basis?

The current Regulations (Reg 2A The Valuation for Rating (Plant and Machinery) (England) Regulations 2000) provide an exception which excludes any new installations for microgeneration of electricity from renewable resources during the life of the rating list. This has a limited and variable impact. For example, a new installation coming on line on 2nd April 2017 will not now be included in the rateable value of the hereditament until the new list comes into force (based on current stated intentions) on 1st April 2023, i.e. effectively 6 years exclusion from liability. However if the same equipment comes on line on 31st March 2023 it will receive only one day's exclusion from liability. The value of this exclusion therefore reduces during the life of the list. The proposed shortening of the length of rating lists to three years will also reduce the maximum benefit that the exclusion will provide.

Heritage sites and historic businesses are concerned with becoming more self-sufficient and also with reducing carbon footprints and other ecologically friendly measures. The installation of renewable energy generation equipment, where physically and economically feasible is therefore a sensible option. However the current exclusion provides little incentive for such installations. If the exclusion was set for the write down period of the cost of the installation of say 15 years, bridging across rating lists, this would ensure a degree of certainty and not impose an additional financial burden which could dissuade museums from making the initial required investment. The period of 15 years is based on information provided by several museum operators for more than 60 schemes and with especial thanks to National Trust. The average period is taken from actual examples of installations allowing for the available grants and feed in tariffs and other incentives the range of years for payback ranges from 11 to 17 years. However, the shorter period of 11 years is from older schemes with more generous grants and tariffs.

The exclusion only applies to microgeneration, i.e. 50 kilowatts of electricity or 45 kilowatts of heat. For large sites, micro-generation may provide some assistance but be inadequate to meet the normal energy requirements of the hereditament. Any extension to the microgeneration installation that will cause it to exceed the definition of microgeneration will render the whole installation as rateable. The exclusion should therefore not be limited to microgeneration but should be extended to all renewable energy technologies listed in S26(2) Climate Change and Sustainable Energy Act 2006

20 What practical challenges would the implementation of wider exemptions for P&M pose, and how might those be addressed?

The practical challenges of implementing the proposed changes is no different to the existing practical challenges of identifying rateable plant and machinery and, in the case of microgeneration, noting when the plant has been installed and making no addition to the rating lists until appropriate. A clearer definition of the limitation of the definition of rateable plant and machinery and modernisation of the Tables would remove ambiguity and uncertainty and therefore lead to fewer disputes.

21 How can business investment and growth best be supported through the business rates system, and how effective would business rates changes be compared to other available measures?

22 How could the business rates system support the decarbonisation of buildings? What would the likely impact of any changes be compared to other measures, including other taxes, spending or regulatory changes?

The business rates system could go further than simply reducing the negative impact of increased assessments due to improvements to the property. As has been shown with support for small businesses and rural relief, reliefs can be targeted. Therefore if the intention is to promote decarbonisation of buildings, reliefs could be granted for a period of years to hereditaments which have installed greener energy options such as micro-generation of power and heat from renewable resources.

There is the practical issue of identification of properties which have installed such technology. However if there is an incentive available such as a percentage relief from liability there would also be an incentive for the owner or occupier of the hereditament to notify the VOA that such systems have been installed, and this can be flagged in the rating list entry for ease of identification by the local authority when raising the rates demands

5.1 Valuation transparency and appeals

23 What further changes would you like to see made to the (a) Check, (b) Challenge and (c) Appeal stages?

There is an initial hurdle of registering with the Government Gateway which has proved to be an onerous and difficult process for many ratepayers. By contrast, the system adopted in Wales requires the ratepayer or owner of the property to complete a standard pro-forma confirming ownership of the property and appointing an agent.

There is only limited transparency in the rating system. Whilst the VOA provide valuations and their internal guidance is mostly available for public inspection via their website, this does not provide the information most relevant to the ratepayer i.e. the evidence on which the valuation is based. This evidence is withheld at all stages of the appeal process other than at the VOA's discretion, and even then only the redacted evidence in support of the valuation is provided.
The VOA website previously allowed ratepayers to see which other appeals were in progress and enabled co-ordination of appeals; however that information is no longer provided. Even where Checks or Challenges have been settled the website does not provide information that would enable the ratepayers to coordinate discussions. Better coordination of evidence enables the list to be accurately maintained and corrected when necessary, and should avoid unnecessary appeals being launched simply in an attempt to obtain confirmation that a rateable value is fair and reasonable. The new Check Challenge Appeal system has only increased this lack of transparency and placed obstacles in the way of

ratepayers to dissuade them from appealing. This results in ratepayers being either required to pay a property tax based on the unsupported opinion of the VOA, or being forced into a lengthy process in which the entire onus of proof rests with the ratepayer.

The Check stage does not offer transparency. Whilst the valuation of the property is made available, for anything other than a one room property it is often difficult or impossible to identify the areas used by the VOA. An unrepresented ratepayer or owner is unlikely to have sufficient grasp of the technicalities involved in measuring properties to the differing standards appropriate for different valuation methods to be able to accurately identify errors. The descriptions used by the VOA of the different floor areas are often at odds with the way in which the space is currently used and will be historic, at best, and wholly inaccurate, at worst. The VOA do not provide plans to show how they have arrived at their floor areas and the ratepayer is forced to produce all evidence of actual sizes, layout, etc. if the areas given in the valuation are not accepted. The VOA work from an assumption that their areas are, or were correct; therefore any dispute in respect of areas is due to a change to the property, and providing the date of change is a requirement of submitting a standard Check. There may have been no change, or the change may pre-date the current ownership and so be unknown and therefore no such date can be provided, preventing the submission of the Check.

The Challenge stage requires the ratepayer to put forward all of the evidence, reasoning and valuation to prove that the rating assessment is incorrect. This evidence cannot be added to once the Challenge process has been completed without the agreement of the VOA. The ratepayer is forced into a litigation stance before any discussions with the VOA take place. There is no reciprocal requirement on the Valuation Officer to provide evidence to show that the Rateable Value is either fair or reasonable. If the VOA representative was acting properly as an Expert at this stage then all relevant evidence, whether or not it supported the valuation, should be provided – however that has not been the experience of museum ratepayers nor, from the limited number of Valuation Tribunal decisions, that of the Tribunals.

The only difficulty with the current Appeal stage is the restriction on evidence that can be added. As noted above the ratepayer is effectively forced into a litigation stance at the Challenge stage. If the ratepayer is not fully conversant with all of the regulations and restrictions that those regulations impose there is the high probability that the ratepayer will be disadvantaged and that a validly held view that the rateable value is excessive will not be proven to the satisfaction of the Tribunal.

The current system is heavily biased against the ratepayer and does not provide transparency by the VOA that assists the ratepayer to determine if the rateable value is fair or reasonable. Removing the Check stage and making the Challenge stage one in which the ratepayer is allowed to raise general concerns requiring the VOA to provide substantive reasoning and evidence would provide a more efficient, transparent and fair appeal system. It is to be assumed that when producing the Rating List the Valuation Office was in possession of the necessary evidence to support the valuations and reasoning and therefore producing that information on request by the ratepayer should not be onerous. As long as the VOA is allowed to withhold evidence and has no requirement to prove the fairness of the rating list, the list is called into doubt and the credibility of the rating system is undermined.

24 What are your views on sharing information, such as rental/lease details, with the VOA? What are your views on the risks and benefits of this information being shared with other ratepayers, public sector organisations or more broadly?

The VOA currently have the power to request information that is deemed necessary to undertake rating valuations; this is not just restricted to rental information but also includes financial information. Ratepayers or their agents currently have no access to this information other than in direct response to the use of that evidence through the formal appeal process. That access is restricted in various ways such as allowing ratepayers to view the information at one of the VOA's diminishing number of offices (currently closed due to Covid) and make notes, but not to take copies.

This limitation on access places a burden both on the ratepayer and on the VOA due to its practice of producing copies of forms and supervising access. At the time the statutory restrictions were written photocopying was an expensive process and electronic transmission of documents was in its infancy – paper forms are now scanned as a matter of course and most rent returns are made online. There is, therefore, no practical reason not to simply provide ratepayers with copies of the returns electronically; however, this would require an amendment to primary legislation.

The information provided on the forms is often an incomplete picture of the true position due to the limitation of the questions asked and the understandable confusion that the wording of the questions create for individuals with no qualifications in property law trying to interpret the questions in order to provide answers which are accurate.

There is an increasing amount of information publicly available both on private websites and from Land Registry and other sources. With regard to financial information for museums, this can be obtained from the Charity Commission website, although the information is relevant to the whole of a charity's operations and not restricted to one property. Therefore, unless the information is commercially sensitive, and has been justifiably identified as such, there is no reason for the VOA to withhold evidence which is relevant to establishing the accuracy of the rating list. For heritage business, which are not charities, the receipts and expenditure method requires the disclosure of financial information which should not be shared outside of its purpose to establish the Rateable value.

The time limit for the submission of information to the VOA is 56 days, which is often a challenge. If information on the lease is required the document needs to be retrieved, possibly from solicitors and studied to find the appropriate information. Whilst this may be a relatively simple task for an experienced chartered surveyor or solicitor it is not straightforward for others particularly in the case of volunteer-run charities. If historic income and expenditure information is requested that information needs to be collated and then analysed to fit the categories set by the VOA which may have no bearing on how the information is presented in an individual charity's accounts. There should therefore be a more proactive and flexible stance from the VOA.

25 What are your views on who can currently use the CCA system and become party to a challenge or appeal? What are your views on who can use the system, when and on what grounds?

The current appeals process allows ratepayers, owners of properties and former ratepayers to be involved in the process. We are aware that local authorities may also wish to be involved.
The process is intended to allow the person bearing the burden of the tax to challenge the valuation which forms the basis to that tax. The outcome should be to ensure that a fair and reasonable level of value is achieved. This is however not always the assured outcome due to the onus of proof being on the ratepayer with no equivalent burden placed on the VOA.

The discrepancy can be seen in the recent outcome of the Upper Tribunal (Lands Chamber) decision in the case of Stephen G Hughes (VO) v Exeter City Council [2020]. The property at the centre of the dispute is Royal Albert Memorial Museum. The property had initially been valued at £520,000 in the 2010 rating list. This was reduced on agreement, but subject to the VOA's scheme and disregarding all other evidence, at £445,000. Following the outcome of appeals for museums in York (Stephen G Hughes (VO) v York Museums and Gallery Trust [2017]) the agreed Rateable Value was appealed on the basis that the method of valuation adopted by the VOA was unreasonable. Because the onus of proof was on the ratepayer the Valuation Officer simply defended the method adopted and in fact argued for an increase to £620,000, notwithstanding the earlier agreement using their own methodology. The initial hearing by the VTE found in favour of the Ratepayer and reduced the Rateable Value to £1. That decision was upheld by the Upper Tribunal.

In the Exeter case, the ratepayer and billing authority are one and the same. However had the ratepayer been an independent museum then the billing authority would have been faced not with a cost-saving but with a significant reduction in revenue. The only consideration should be establishing the fair and reasonable level of value. Extending the rights of appeal to third parties with a vested financial interest but no interest in the property would not assist in the process and is likely to create delays or produce unfair outcomes for the taxpayer.

5.2 Maintaining the accuracy of ratings lists

26 What are your views on introducing a requirement to provide the VOA with rental information, either routinely or where changes to a lease occur?

It is accepted that the VOA requires accurate up to date information to enable the compilation of new rating lists. As the rating lists are based on a pre-dated valuation, currently by two years, rental evidence collected after the start of the list is highly unlikely to be useful in maintaining the list other than as a direct result of Checks and Challenges, in which the appellants will be providing the evidence and so not requiring the general collection of evidence.

There should be no requirement for the ratepayer to provide duplication of information already sent. As heritage sites, buildings and spaces are, or should be, valued on the basis of receipts and expenditure, a short annual return for the previous year's figures would be easier to provide (i.e. not requiring historic information) and if carried out regularly sites will be able to factor this into their normal annual returns for other purposes. However, that will require a significant policy change by the VOA, including more flexibility in how information is provided and not requiring analysis (which can lead to errors and double counting) in order to fit the VOA's categories.

The question specifically addresses lease events. As the VOA's records should include the relevant dates such as rent reviews and lease renewals, it would be more efficient to generate requests for information rather than relying on the ratepayer or landlord to provide updates. The VOA should also recognise that reviews and renewals are often completed months or years after the due date and the system should enable the ratepayer or landlord to reply by providing an estimate of when, if ever, the review will be concluded (i.e. if there has been no increase in rental value, the landlord may opt not to trigger a review or terminate a lease). This is of little impact on the museum and heritage sector with most organisations having a freehold or peppercorn rents, there should therefore be no requirement for the VOA to follow up requests for leasehold information in such circumstances.

27 What are your views on making a register of commercial lease information publicly available?

As has been noted previously our members' properties are predominantly either freehold or held on peppercorn rents. We, therefore, have no specific concerns regarding the creation of a register of commercial rents.

28 What are your views on introducing a requirement to notify the VOA or billing authority of changes to a property that could impact the business rates liability?

Any significant change to museums or heritage site will require planning consent, and in the case of listed buildings will also require listed building consent. Such consents are dealt with in the first instance, if not in their entirety, by the relevant local authority, which will normally also be the billing authority. Therefore, the alterations have been notified already to a relevant body with statutory duties to notify the VOA of alterations likely to affect the value of the property.
The rating system is poorly understood by the majority of ratepayers and already widely considered to be onerous and unfair. By adding an additional burden of notification or if failure to comply with requirements to notify the VOA is made a fineable offence this will further antagonise ratepayers. We do not therefore believe that such a requirement would be useful or even workable. A requirement would increase the regulatory burden on businesses, and further would require a significant expansion of VOA resources if it were to be enforced.

5.3 The billing process

29 How can the current billing process be improved? What changes would provide the most significant benefits to ratepayers through for example, cost or time savings?

The UK heritage sector includes a wide range of organisations, from large institutions with dedicated finance teams to small volunteer-run museums. There is therefore no one size fits all answer to this question. Digitising the billing system may be of assistance to the larger museums and simply add a layer of confusion for volunteer-run museums. It is not clear how the involvement of HMRC and linking with the other digitised tax systems will assist.

There is however one common theme. Rates bills are often poorly laid out and unclear, so that the basic calculation of liability and then allowances are not easily understood and even their professional advisers admit to struggling to untangle the bills especially after successful appeals have resulted in back-dated refunds.

30 What are your views on a centralised online system linked to other business taxes, enabling more joined-up data and management of billing across different locations? How could this best support ratepayers and billing authorities?

A centralised system would help to streamline and simplify business taxes for users.

31 What sort of support would businesses and agents expect to receive when moving to a centralised online process, and from where would you expect to receive it?

32 What, if any, criteria should be applied in exempting certain ratepayers from online billing?

6 Exploring alternatives to business rates

33 What are the likely benefits and costs of implementing a CVT? What are the practical implications of implementing a CVT?

The majority of museums, heritage sites and galleries are owner/occupiers. Those which are leasehold are often held on peppercorn rents or low rents. If the tax base was changed from rental value charged against the occupier to a capital value basis charged against the owner, for most museums this would not shift the liability.

For those where the property is leasehold, the landlords would no longer be able to support a lease with a peppercorn or nominal rent due to the costs to them, except where the lease enables the landlord to pass on any property tax to the tenant, in which case there will again be no practical benefit to the museum.

A capital value tax that the owner cannot avoid would be a disincentive to future lettings to heritage organisations.

There has been no mention of what reliefs would be available. Presumably, as the tax would be aimed at owners, there would be no charitable relief to accompany the tax. This will create serious difficulties if significant levels of value are imposed and there is no relief. Many museums would no longer be financially viable especially if the level of support continues to decline – particularly given the drop in local authority funding for museums over the last ten years and the loss of European funding. Overall therefore the practical impact of implementing a Capital Value Tax would be extremely negative for the museum and heritage sector.

34 What evidence is there of the benefits that replacing business rates with a CVT would have in practice, for example, on business investment and growth?

35 How can land and property be valued fairly and efficiently under a CVT in England? What evidence is available to do this?

We do not advocate for a CVT in England. As already noted there is an ongoing issue with obtaining fair levels of value for museums and heritage sites and businesses in the business rates system. This is being addressed through the appeal process using valuation methods that have been refined over the last 100 years or more, and hopefully, the inequity will be redressed over the next few years.

There is no capital market for selling museums, heritage sites or other business that operate from historic buildings other than for alternative uses or redevelopment, and so even if a rental value could be derived from some indirect method of arriving at a rental value there is no evidence from which yields could be derived. The introduction of CVT would therefore require some indirect method of valuing heritage land and buildings direct to capital value, to the best of our knowledge no such methodology exists. The contractor’s method has been found to be inappropriate for the valuation of museums in historic buildings by the Upper Tribunal on two occasions in the last three years and has never been considered to be a valid method for valuing historic land and buildings.

Therefore there is no obvious way that museums and heritage spaces could be valued to capital value without relying on alternative use valuations, thereby ignoring the actual use of the property, or a method known to produce inappropriately high levels of value for historic

buildings. Capital valuations on either basis would impose a higher tax burden than the museum sector can sustain. Valuing museums and heritage sites on an alternative use basis would be unfair and devising some fair means of indirect valuation methodology would be inefficient.

36 How would replacing business rates with a CVT affect the distribution of taxation?

37 What are the likely implications of moving the liability for tax from tenant to landowner or property owner? How could the government ensure effective collection from and compliance by these taxpayers?

38 What lessons can be learned from other countries experiences with CVTs?

39 What other international alternative approaches to the taxation of non-residential land and property merit consideration for England?

Some of our member organisations promote a Business Tax that uses systems and financial data already submitted annually to HMRC to reflect the profitability of an enterprise, rather than the use of premises. This would fairly levy a tax on the most profitable businesses, streamline the system and remove unnecessary administration. It would also account for online tax and other forms of business that escape tax contribution to regional and local services. This would be especially appropriate for business running historic buildings.

40 What would be the benefits and risks of introducing an online sales tax?

41 Which services and products do stakeholders think should be subject to an online sales tax and what evidence is there to support this?

42 What evidence is there for the effects of an online sales tax, for example, on changes in consumer behaviour, or prices?

43 How could an online sales tax affect the distribution of taxation?