LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

CALL FOR VIEWS ON THE NON-DOMESTIC RATES (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH ASSOCIATION OF UNIVERSITY DIRECTOR OF ESTATES AND SCOTTISH UNIVERSITIES ADVISORY GROUP ON GENERAL PRACTICE, VALUATION AND RATING

Overall programme of NDR Reform and the Barclay Review.

The Committee welcomes views on:

1. The Scottish Government’s overall programme of Non-Domestic Rates reform, and how the Bill fits into this.

We welcome the Scottish Governments efforts to undertake a review on business rates. We also appreciate the opportunity the Government has provided to allow stakeholders to engage in consultation at each stage of the process. We do however retain some concerns on certain aspects of the proposed Bill and we outline these below.

2. How the Government has responded to the Barclay review, in particular on those recommendations it has rejected in full or part.

We understand that the Government is in a difficult position to align everyone’s views and wishes to provide a business rates system that is robust and adaptable to assist in promoting growth in Scotland. We do however feel that some of the proposed bill in its current form will move away from principle objective of the Scottish Government to ensure that Scotland is the best place for business to invest and operate. We have concerns that certain elements of the bill will not be aligned to this objective.

Specific proposals in the Bill

The Committee welcomes views on:

3. Section 2 of the Bill which provides that revaluation of properties subject to non-domestic rates would be carried out every 3 years rather than every 5 years.

As per our previous submissions we welcome this amendment by Government. More regular revaluations will assist in business ensuring that rates demands are more in line with market forces.

4. Section 3 of the Bill, which (together with section 9) makes provision in relation to new or improved properties. These delay the point at which non-domestic rates are increased because a property has been expanded or improved, or at which a new build property begins to incur liability to non-domestic rates. The underlying aim is to incentivise development and
investment in business properties.

We consider this as a positive and business friendly message for business. The introduction of this relief is an incentive to encourage investment and growth in Scotland and meets one of the aims of the Barclay review.

We would however recommend that clear guidance and definitions is provided within the legislation as to what will constitute a “new or improved property”. We are aware that there are issues in interpretation of the current Secondary Legislation which makes it difficult for ratepayers to obtain the relief’s that should be made available under this Government initiative.

Our estates continue to evolve whether it is refurbishments of existing properties or newly constructed buildings. A number of our entries are contained within a single entry in the valuation roll, where an addition of a new build/refurbishment of an existing property would not be easily identifiable for the Local Authority. The introduction of a “flag” by the Assessor on the entry should assist in this provided that there are appropriate checks and challenges that can be introduced if required.

We note however that the draft Bill does not provide information regarding any appeal mechanisms that require to be made available to ratepayers. We would encourage the Government to consider this when providing in the final legislative position.

5. Section 4, which aims to increase the degree to which parks are subject to non-domestic rates, in recognition of the commercial activities that take place in some parks (e.g. the running of a café).

No comment to make.

6. Section 5, intended as a measure to address a perceived “loophole” that enables owners of holiday homes to avoid both council tax and non-domestic rates by making it more difficult to enter a home on the roll (and, through this, to then claim relief under the small business bonus scheme).

No comment to make.

7. Sections 6-9, which aim to reduce the current high rate of valuation appeals, which the Scottish Government perceives as speculative. (Increasing the frequency of ratings revaluations in section 2 is also seen as a component of this reform.)

We acknowledge the Government’s intention in this section, however we do have some concerns that we wish to raise.

The more information that can be provided when valuation notices are issued will assist ratepayers to determine whether their values are fair from the start therefore potentially removing the need to lodge a proposal/appeal. We would however recommend that under Section 6 (2ZA) (b) that the information to be contained on a
Valuation Notice is defined by Statute rather than at the Assessors discretion.

Regarding the proposed wording of Section 7 subsection 3ZA (4) (b) seeking ratepayers when submitting a proposal must also submit their alternative value and all associated information. We envisage that the increased powers the Assessor will have will allow more information to be provided at the time of each revaluation and in turn provide a more robust Rateable Value. To request a ratepayer to provide a detailed valuation and associated documentation at the time of a proposal in a restricted timetable will put undue pressure on ratepayers.

The wording contained within Section 7 subsection 3ZB (1) (b) (ii) makes reference that an appeal can only be made on the information provided within the proposal. This would restrict the ratepayers an opportunity to introduce new information/evidence to counter the evidence that the Assessor has used or had misinterpreted information already having been provided.

We would encourage the Government to consider introducing a timetable for response times from the Assessor after the submission of a proposal.

We retain serious concerns over Section 7 subsection 3ZB (3) as per our previous consultation responses and we are disappointed that this section has been retained by Government in the draft Bill that a valuation committee hearing can retrospectively increase rateable values. We are of the view that this proposal is counter to the principles and objectives of the Barclay review.

8. Section 10, which removes eligibility to claim charitable relief from non-domestic rates from mainstream independent schools, and section 11 which gives the Scottish Ministers the power to issue guidance to local authorities on the appropriate way to use their powers to grant sports club relief.

No comment to make.

9. Section 12, which aims to address what the Scottish Government describes as a known tax avoidance tactic concerning unoccupied or under-used properties.

No comment to make.

10. Section 13, which will enable councils to initiate debt recovery proceedings for unpaid rates sooner.

We acknowledge the principle of this being contained within the draft Bill for Local Authorities to implement debt recovery quicker. However, we would also welcome inclusion in the final legislative position for an improvement in the response time for refunds (where applicable) are issued by the relevant Local Authority on a timeously basis, i.e. 31 days from settlement of a proposal/appeal.

Section 13(4) of the Bill could be expanded and improved on. There are occasions
where business is unaware of any outstanding rating liability until a summons and/or warrant and/or sheriff turns up. The information contained provided with such a summons/warrant could be improved to include a calculation of the outstanding amount due together with a copy of a rates demand showing the outstanding amount due.

11. Sections 14, 18, 19 and 22, which together aim to strengthen the power of assessors to obtain the information they need to carry out their role, and sections 15, 16, 17, 20, 21 and 22 which give local authorities increased powers to obtain information from ratepayers, in order to ensure that the information they have is accurate, and to reduce the risk of fraud.

We are disappointed to see in Section 14 that our comments included in our previous consultation response over the ability of the Assessor to serve information requests notices on any other person have not been taken on board.

Our sector works closely with the Scottish Assessors and Valuation Office in responding to information requests. We question therefore the need for the Assessor to have additional powers to approach anyone they deem to have knowledge of a property. This undermines the trust between ratepayers and the Assessor. The Assessors position is being strengthened by the introduction of civil penalties to obtain information therefore we request that the additional powers available to the Assessors are removed from the Bill.

Regarding the response time to Assessor Information Notices (Section 14) and Local Authority Notices (Section 15) as contained within the Bill, to assist in creating a consistent, coherent and understandable business rates system that provides clear guidance for all parties concerned, we recommend that the response times to the notices should be consistent.

We acknowledge the Government’s intention to provide civil penalties for Assessors (Section 18) Local Authorities (Section 20) for non-return on information when requested by the relevant party. We however are disappointed that under Section 18 subsection 4, this implies that the maximum fine applicable could be the equivalent value as contained in the valuation roll. We recommend that this element is removed from the final legislation. Our previous submissions outlined that the maximum penalty should be set at £1,000.

We note that the escalation process within the Bill does not allow flexibility. Ratepayers with a single property are being treated the same as those that have multiple properties sometimes located across different geographical areas.

The nature of our organisations does in certain times make it difficult to obtain and release the information, the inflexibility of the process suggested within the Bill could result in penalties being sent whilst the information is being collated.

We would therefore encourage a degree of flexibility should be permitted where the information is being prepared for submission to the Assessor and or Finance Department.
We also recommend that the penalties within Section 18 and 20 are consistent and equitable. The Bill as drafted contains different penalties depending on which party serves the notice. To create a system that is transparent, consistent and understandable these penalties should be identical.

12. Part 4 of the Bill, which give the Scottish Ministers the power to make anti-avoidance regulations to prevent ratepayers gaining an advantage from avoidance arrangements that are considered artificial, and sets out definitions of “advantage” and “artificial”.

No comment to make.

Other

13. Do you have any other comments about the Bill? In particular, is there anything not in the Bill concerning non-domestic rates that should be in the Bill?

We are happy to discuss the Bill or our response in more detail with the Government if required.

We would recommend that the Scottish Government also consider the following points in relation to the draft bill as per the recommendations contained with the Barclay report.

We would encourage the Government to consider the full impact small business bonus scheme and the continued merit of having such a relief. The introduction of this relief has removed approx. 100,000 properties from the payment of rates. This puts a burden on the other stakeholders within the business rates system and places a larger emphasis on what the Government considers to be a large business.

We acknowledge the need to have some form of relief for small business; however this requires to be looked at an alternative means other than based on Rateable Value. Consideration should be given to taper in the relief rather than exempt properties from payment of rates with a cumulative rateable value of less than £15,000.

We would also recommend that Government adopt the Barclay recommendation to reduce the burden on stakeholders and reduce the large business supplement to bring this in line with England.

Consideration of both these elements would assist in spreading the “burden” between all ratepayers, would potentially reduce the rates poundage below that level in place in England and allow Scotland to be more attractive for business to invest.