



BUSINESS RATES UPDATE - WHATEVER NEXT ... ?



IRRV EAST ANGLIA ASSOCIATION

-

10 DECEMBER 2021

GARY L WATSON IRRV (HONS)
DEPUTY CHIEF EXECUTIVE IRRV





OUTLINE OF SESSION

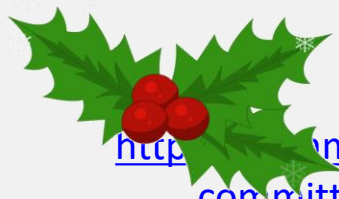


- Council Tax Collection Inquiry
- Autumn Budget 2021
- **Fundamental Review** of Business Rates
- Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill
- Key Rating Terms
- Section 47: Discretionary Relief
- Judicial Review
- Way Forward?



MY THOUGHTS





COUNCIL TAX COLLECTION INQUIRY



<https://committees.parliament.uk/committee/17/housing-communities-and-local-government-committee/news/159085/council-tax-collection-inquiry-launched-by-hclg-committee/>

- Background

- Citizen's Advice Report on Unavoidable Debt (January 2021)

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Unavoidable%20debt.pdf>

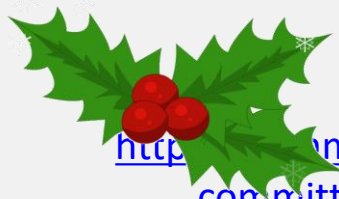
- DLUHC Council Tax Collection Figures (June 2021)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024187/Collection_rates_and_receipts_of_council_tax_and_NNDR_2020-21_revised.pdf

- Best Practice Guide in Council Tax Collection (August 2021)

<https://www.gov.uk/government/publications/council-tax-collection-best-practice-guidance-for-local-authorities/council-tax-collection-best-practice-guidance-for-local-authorities>





COUNCIL TAX COLLECTION INQUIRY

<https://committees.parliament.uk/committee/17/housing-communities-and-local-government-committee/news/159085/council-tax-collection-inquiry-launched-by-hclg-committee/>



- Questions
 - Do there need to be changes in the practice employed by local authorities to collect council tax arrears?
 - What examples are there of local authority best practice in respect of council tax arrears collection - and what has the impact of this practice been?
 - What is your assessment of the August 2021 government guidance on best practice for council tax collection?
 - Do there need to be changes to the legislation on the recovery of council tax arrears?
 - How do the different schemes of local authority council tax support affect council tax collection rates?

- <https://www.irrv.net/homenew/item.php?iid=26942&wid=24&did=12>





AUTUMN BUDGET 2021



Chancellor of the Exchequer: 27 October 2021

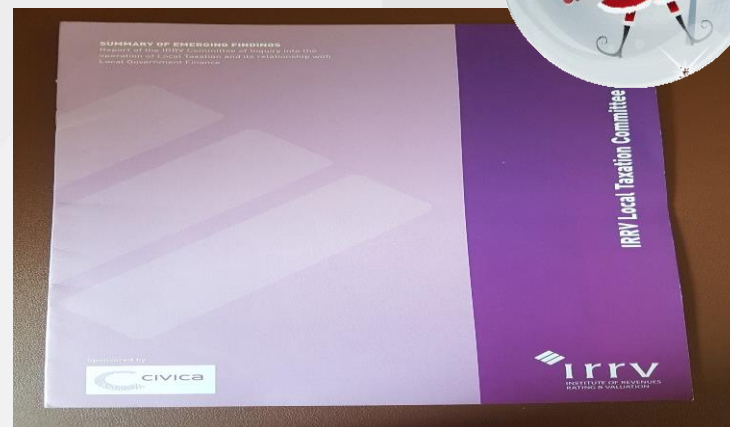
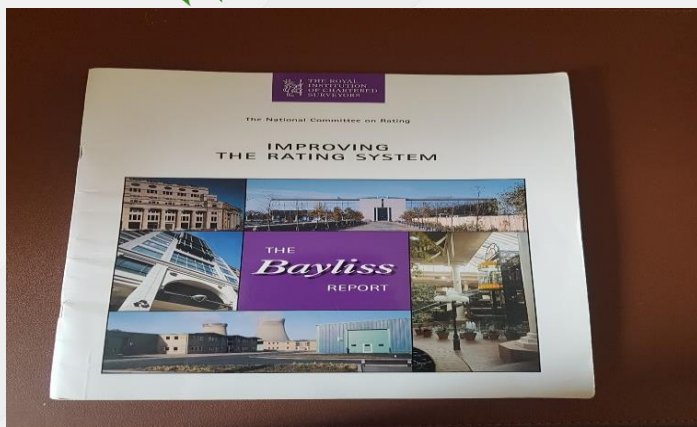
“Madam Deputy Speaker. Our manifesto promised to review business rates. We’re publishing our conclusions today. Before I set out our plans, let me say this:-

*We on this side of the House are clear that reckless, unfounded promises to abolish a tax which raises £25bn every year are completely irresponsible. **It would be wrong to find £25bn in extra borrowing, cuts to public services, or tax rises elsewhere, so we will retain business rates. But with key reforms to ease the burden and create stronger high streets.”***

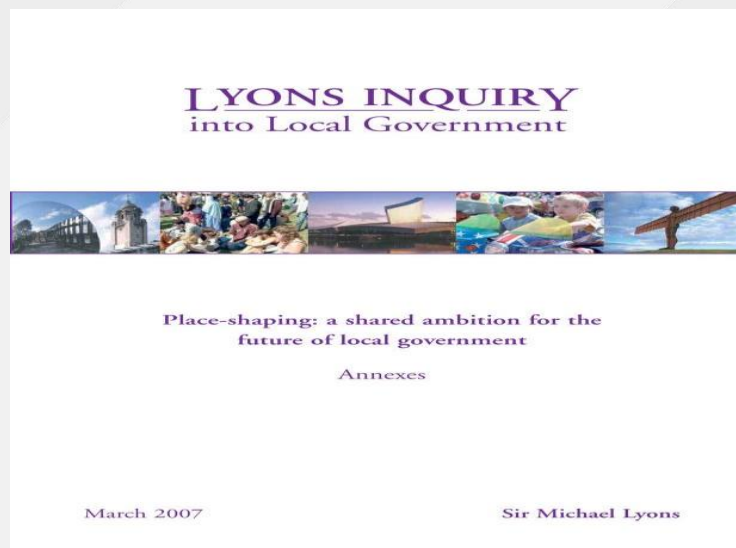




FUNDAMENTAL REVIEW OF BUSINESS RATES (PREVIOUS REVIEWS)



<https://www.amazon.co.uk/Bayliss-Report-Improving-Rating-System/dp/0854067523>





FUNDAMENTAL REVIEW OF BUSINESS RATES (KEY DOCUMENTS)



- **March 2020: Terms of Reference**

<https://www.gov.uk/government/publications/business-rates-review-terms-of-reference/hm-treasury-fundamental-review-of-business-rates-terms-of-reference>

- **July 2020: Call for Evidence (2 phases)**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903429/Business_Rates_Review_-_CfE.pdf

- **March 2021: Interim Report**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/971681/Fundamental_Review_Interim_Report.pdf





FUNDAMENTAL REVIEW OF BUSINESS RATES (KEY DOCUMENTS)



- **July 2021: Consultation (More Frequent Revaluations)**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997352/Consultation_More_Frequent_Revaluations.pdf

- **October 2021: Final Report**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028478/BRR_final.pdf

- **November 2021: Technical Consultation (Business Rates Review)**

<https://www.gov.uk/government/consultations/business-rates-review-technical-consultation>





FUNDAMENTAL REVIEW OF BUSINESS RATES (INSTITUTE RESPONSES)



- **July 2020: Call for Evidence (2 phases)**

<https://www.irrv.net/documents/weblinks/2020/9/IRRV-Response-HMT-NDR-Fundamental-Review-Phase1.pdf>

<https://www.irrv.net/documents/weblinks/2020/10/IRRV-Response-HMT-NDR-Fundamental-Review-Phase2.pdf>

- **July 2021: Consultation (More Frequent Revaluations)**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997352/Consultation_More_Frequent_Revaluations.pdf





FUNDAMENTAL REVIEW OF BUSINESS RATES (GUIDANCE AWAITED)



- **Retail, Hospitality and Leisure Business Rates Relief Scheme**
 - Provides relief in 2022/23
 - Eligible properties will receive 50% relief (cash cap of £110,00 per business)
 - Delivered through Section 47
 - Guidance to be issued by DLUHC
- **Extension of Transitional Relief and Supporting Small Business Relief**
 - Provides relief in 2022/23
 - Eligible properties with rateable value up to and including £100,000
 - Delivered through Section 47
 - Guidance to be issued by DLUHC





FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: SUMMARY)



- **Scope**

- Measures to enable more frequent revaluations (3 parts)
- Improvement relief
- Support for investment in green plant and machinery
- Other administrative changes

- **Responsible Departments**

- Department for Levelling Up, Housing and Communities
- HM Treasury

- **Duration**

- 30 November 2021 to 22 February 2022





FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Measures to enable more Frequent Revaluations**
 - Chapter 1: Information Provision
 - * Current statutory position
 - * Legal duty to provide certain information
 - Notify the VOA of changes to occupier and property characteristics (share with billing authority)
 - Mandatory provision of rent and lease information (+ trade information)
 - * Annual requirement



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Measures to enable more Frequent Revaluations (Continued)**
 - Chapter 2: The Support Compliance Regime
 - * Expectation of Government
 - * 30 day window
 - * Sanctions not until April 2026
 - * Reference to costs (parking comparison)



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Measures to enable more Frequent Revaluations (Continued)**
 - Chapter 3: Appeals changes and transparency
 - * 2 areas for reform
 - Clarification on a 'Material Change of Circumstances' (MCC) (April 2023)
 - * What constitutes a MCC (obvious)
 - * What does not constitute a MCC (local authority decisions)
 - Removal of 'Check' from 'Check, Challenge and Appeal' (April 2026)
 - * 3 month 'challenge window'
 - * Completed before end of the list



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Improvement Relief**

- Chapter 4

- * To start in April 2023 (reviewed in 2028)
 - * Support businesses that want to invest in their premises to make them more efficient and work better for employees and customers
 - * 2 conditions
 - 'Qualifying works condition' (i.e. insulation / extension)
 - 'Occupation' condition (i.e. same ratepayer)
 - * Certificate will be issued if conditions met
 - * Last for 12 months



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Support for Investment in Green Plant and Machinery**
 - Chapter 5
 - * To start on 1 April 2023 (end 2035)
 - * Support business investment in green technology and the decarbonisation of non-domestic buildings
 - * Exemption for eligible plant and machinery used in onsite renewable energy generation and storage
 - * 100% relief for eligible low-carbon heat networks that have their own rates bill



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: ANALYSIS)



- **Other Administrative Reforms**

- Chapter 6

- * Central rating list

- Local Government Finance Bill 2017
 - Secretary of State can direct VOA
 - Unoccupied rate and charitable relief applicable

- * Discretionary Relief

- Background
 - Remove backdating limitation
 - Revoke S.I.

- * Multiplier (SBR)

- Current need to lay an S.I. and exclusion if mandatory relief / unoccupied rate
 - Propose the small business multiplier increases by CPI (by 1 March)
 - Charities and unoccupied properties will qualify



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Measures to enable more Frequent Revaluations**

- Chapter 1: Information Provision

1. Do you have any views on the proposed implementation of the information provision system? What issues should be considered in the design of the new system?
2. Can you see any difficulties in collecting this information or providing it to the VOA? Is there any further information that should be provided?
3. How can the VOA best help customers understand what is needed and how to provide it?
4. How do you want to be engaged as this system is developed?



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Measures to enable more Frequent Revaluations (Continued)**
 - Chapter 2: The Support Compliance Regime
 - 5. Does the proposed framework strike the right balance between a system of proportionate and flexible sanctions, and one which helps ratepayers to meet their obligations?
 - 6. What would you wish to see in an online service to best help ratepayers meet their obligations?
 - 7. Under what circumstances would 30 days not be enough time for ratepayers to meet their obligations?
 - 8. What processes might ratepayers have to put in place to meet their obligations and what costs might this bring?
 - 9. Do you have any suggestions for how this compliance framework could be improved? If so, please provide evidence or scenarios.





FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Measures to enable more Frequent Revaluations (Continued)**
 - Chapter 3: Appeals changes and transparency
 - 10. Do you consider that the proposed reform to the rules on MCCs will ensure that changes in economic factors, market conditions or changes in the general level of rents are reflected at revaluations? If not, why not?
 - 11. What are your views on the proposed improvements to the CCA system. How else could we improve CCA in a system under which ratepayers are now providing information under the new duties?
 - 12. Are there particular considerations that the respondents consider the government should have particular regard to when moving forward with phase 2 of transparency?



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Improvement Relief**

- Chapter 4

13. Will the proposed rules for the improvement relief ensure the relief flows to occupiers who are investing in their business?
14. Do you consider that the 2 conditions will give effect to the stated policy intent? Do you have any concerns regarding the practical application of the conditions as set out?
15. Do you agree that the proposed method of reaching the chargeable amount will achieve the objective of preventing ratepayers who have undertaken qualifying works from seeing an increase in their bill for 12 months as a result of the qualifying works?



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Support for Investment in Green Plant and Machinery**

- Chapter 5

16. Do you agree that the proposed changes to the plant and machinery regulations would ensure that plant and machinery used in onsite renewable energy generation and storage used with electric vehicles charging points are exempt?
17. Do you agree that the tests we are proposing in the heat networks relief scheme will ensure the relief is correctly targeted?



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: QUESTIONS)



- **Other Administrative Reforms**

- Chapter 6

18. What are your views on the proposed reform to the administration of the central list?
19. Do you agree that decisions on the operation of local discretionary relief schemes should be localised to billing authorities in the way proposed? Do you consider any rules should still be imposed from central government and if so, why?
20. Are local authorities, ratepayers or other interested stakeholders aware of any other instances where existing constraints on Section 47 relief are giving rise to administrative challenges or unintended practical outcomes?
21. Would the proposed reforms to the multiplier improve the administration of the system and if not, why not? Do you agree that the deadline for confirming the multiplier should no longer be tied to the approval of the local government finance report?



FUNDAMENTAL REVIEW OF BUSINESS RATES (TECHNICAL CONSULTATION: NEXT STEPS)



- The government expects to consult on Digitalising Business Rates next year. This programme will enable HMRC to develop a versatile database for matching business rates data with central HMRC tax data. We are also reviewing what powers are needed to underpin the data collection and transfers to enable this, and the formation and timing of any necessary legislation. (<https://www.legislation.gov.uk/ukpga/2019/19/introduction>)
- The government will continue to consider the arguments for and against an Online Sales Tax which, if introduced, would raise revenue to fund business rates reductions. The Online Sales Tax consultation will follow in due course.
- Further consultation is expected on avoidance and evasion in relation to business rates reliefs in 2022.





RATING (CORONAVIRUS) AND DIRECTORS DISQUALIFICATION (DISSOLVED COMPANIES) BILL



- **Purpose**

- A Bill <https://bills.parliament.uk/bills/2861> to make provision about matters attributable to coronavirus that may not be taken account of in making certain determinations for the purposes of non-domestic rating; and to make provision in connection with the disqualification of directors of companies that are dissolved without becoming insolvent.

- **Briefing Paper**

- <https://researchbriefings.files.parliament.uk/documents/CBP-9249/CBP-9249.pdf>

- **Status**

- House of Lords (3rd Reading) took place **8 December 2021**
- Royal Assent W/C 13 December 2021





RATING (CORONAVIRUS) AND DIRECTORS DISQUALIFICATION (DISSOLVED COMPANIES) BILL



- **Covid-19 Relief Scheme**

- Outline of scheme

- * New Business Rates relief fund of £1.5 billion for businesses affected by Covid-19 outside the retail, hospitality, and leisure sectors
 - * Targeted support delivered as appeals against rates bills on basis of material changes of circumstance due to the pandemic to be ruled out
 - * The relief fund will get cash to affected businesses in the most proportionate and equitable way

- Operation

- * Delivered through Section 47
 - * Guidance to be issued



BREAK





KEY RATING TERMS



- **“Business / Occupier / Owner”**
- **“Wholly or Mainly”**
- **“The interests of persons liable to pay Council Tax set by it”**
- **“Hardship”**
- **“As Soon as is Practicable”**
- **“Reasonable Enquiries”**
- **“Reasonable Costs”**
- **“Short Time”**



SECTION 47: DISCRETIONARY RELIEF



- **Section 47(5A)**
 - So far as a decision under **subsection (3)** above would have effect where none of **section 43(6)** above, **section 43(6B)** above and **subsection (5B)** below applies, the billing authority may make the decision only if it is satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay council tax set by it.
- **Section 47(5C)**
 - A billing authority in England, when making a decision under **subsection (3)** above, must have regard to any relevant guidance issued by the Secretary of State.
- **Section 47(5D)**
 - A billing authority in Wales, when making a decision under **subsection (3)** above, must have regard to any relevant guidance issued by the Welsh Ministers.



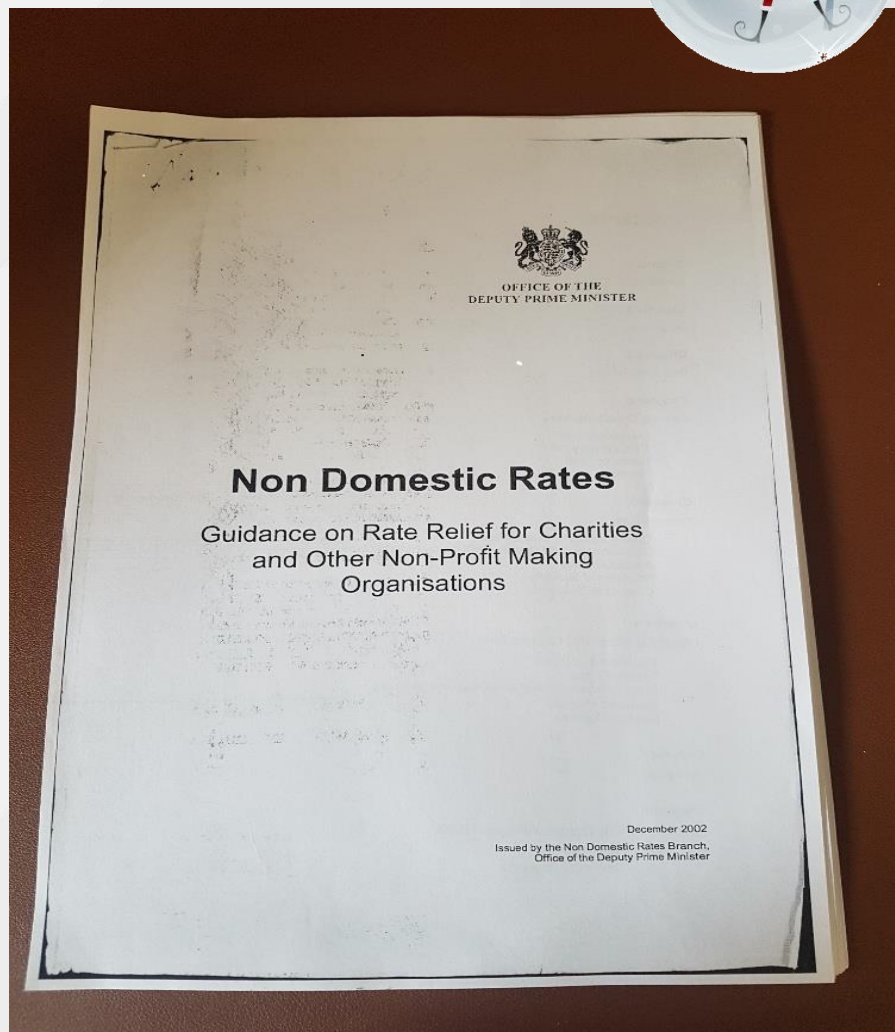
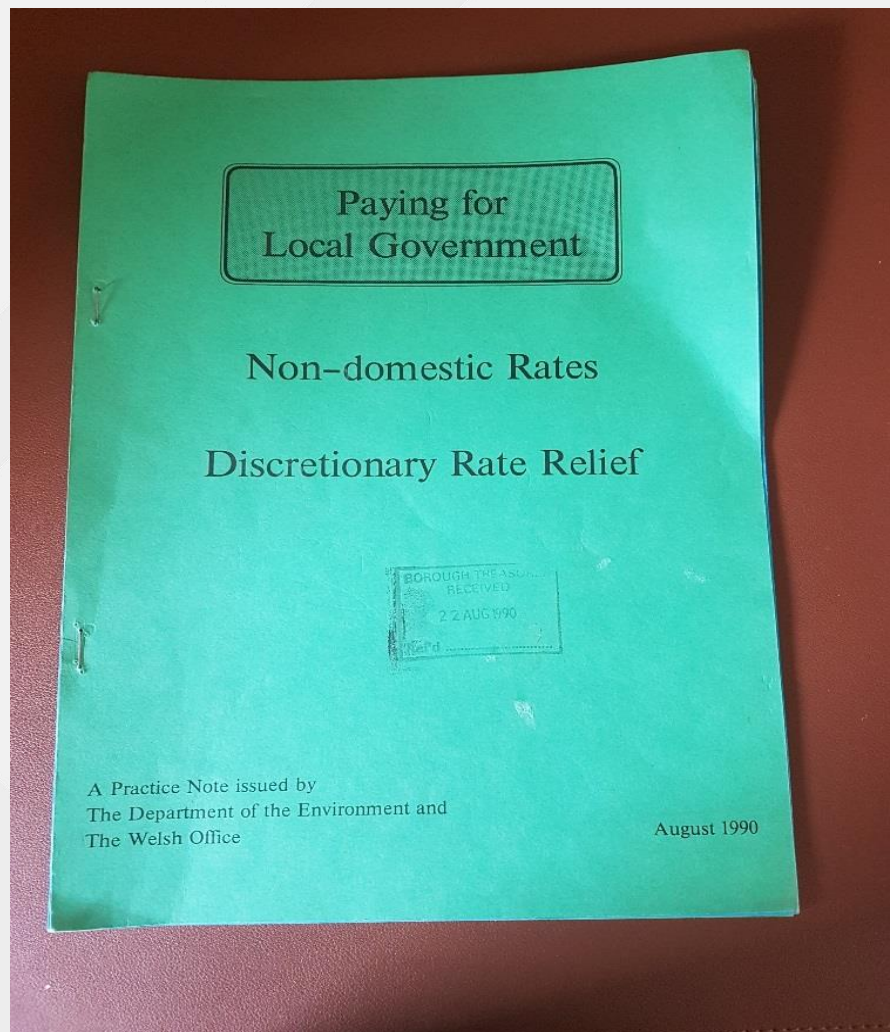
SECTION 47: DISCRETIONARY RELIEF



- **Section 47(7)**
 - A decision under **subsection (3)** above is invalid as regards a day if made more than **six months after the end of the financial year** in which the day falls.
- **Section 47(8)**
 - The Secretary of State may make regulations containing provision:-
 - (a) Requiring notice to be given of any determination or decision;
 - (b) Limiting the power to revoke a decision or vary a determination;
 - (c) As to other matters incidental to this section.
- **Section 47(8A)**
 - This section does not apply where the hereditament is an excepted hereditament.



SECTION 47: DISCRETIONARY RELIEF





SECTION 47: DISCRETIONARY RELIEF



- **General**

- *“It is very important that billing authorities have readily understood guidelines for deciding whether or not to grant relief and for determining the amount of any relief given. **However, we would not recommend authorities to adopt a policy or rule, which allows or requires it to dispose of a case without any consideration of the merits of the individual case.** The operation of blanket decisions to refuse relief across the board might well be ultra vires and could involve the authority in litigation. This does not preclude it from having a general basis on which it approaches such cases, but where it has one, it is a matter of good practice that applicants or potential applicants for relief are aware of it.”*



SECTION 47: DISCRETIONARY RELIEF



- **Notice of Decisions - Successful**

- *“Authorities should notify all applicants for rate relief of their decision in writing. Where relief is granted, the letter should set out:-*

- (a) The amount of relief granted and the date from which it has been granted.*
 - (b) The relief that has been granted for a specified period, the date on which it will end.*
 - (c) The new chargeable amount.*
 - (d) The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted.”*



SECTION 47: DISCRETIONARY RELIEF



- **Notice of Decisions - Unsuccessful**
 - *“We suggest that as a matter of good practice, authorities should provide an explanation of their decision in every case where relief is either refused or restricted to a smaller amount than applied for. Authorities should explain that decision within the context of the exercise of their statutory duty.”*
 - *“The ratepayer should also be notified at the same time of any right of appeal against the decision of the authority.”*
 - *“Authorities should have a mechanism that allows applicants to appeal against a decision by an authority to reject or restrict the award of discretionary rate relief.”*



JUDICIAL REVIEW





JUDICIAL REVIEW



- **Associated Provincial Picture Houses Ltd. v Wednesbury Corporation (1948) (CA)**
 - To have the right to intervene, the Court would have to conclude that:-
 - * In making the decision, the defendant took in to account factors that ought not to have been taken in to account; or
 - * The defendant failed to take in to account factors that ought to have been taken into account; or
 - * The decision was so unreasonable that no reasonable authority would ever consider imposing it.
 - The Court held that the decision did not fall under any of these categories and the claim failed.



JUDICIAL REVIEW



- **Associated Provincial Picture Houses Ltd. v Wednesbury Corporation (1948) (CA) (Continued)**
 - Lord Green MR said *“The court is entitled to investigate the action of the local authority with a view to seeing whether they have taken into account matters which they ought not to have taken into account, or, conversely, have refused to take account or neglected to take into account matters which they ought to take in to account. Once that question is answered in favour of the local authority, it may still be possible to say that ... nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it.”*



JUDICIAL REVIEW



- **Council of Civil Service Unions v Minister for the Civil Service (1984) (HL)**
 - Lord Diplock said *“A decision is unreasonable if it ‘is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who has applied his mind to the question could have arrived at it.’”*
- **R v Corporation of the City of London ex parte Matson (1995) (CA)**
 - Lord Justice Neil said *“Law does not require or give a duty to give reasons for administrative decisions, but fairness and natural justice require that reasons are given.”*



WAY FORWARD



friendlystock



QUESTIONS?





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