

LANCASHIRE SCHOOLS FORUM

Date of meeting 18 March 2021

Item No 13

Title: AOB

DfE Consultation Changes to the payment process of schools' business rates

Appendix A refers

Executive Summary

This report provides information on the DfE consultation in connection with Changes to the payment process of schools' business rates.

Forum Decision Required

The Forum is asked to:

- a) Note the report.**
- b) Express any initial views about the consultation**

Background

On 10 March 2021, the DfE issued a consultation on Changes to the payment process of schools' business rates. A copy of the consultation document is provided at Appendix A.

The Forum meeting will provide an initial opportunity to express views on the DfE proposals.

The consultation closes on 5 May 2021.



Education & Skills
Funding Agency



Department
for Education

Appendix A

Changes to the payment process of schools' business rates

Government consultation

Launch date 10 March 2021

Respond by 5 May 2021

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Introduction

The Department for Education (DfE) is seeking views on the proposal to centralise the payment of national non-domestic rates (NNDR), more commonly known as business rates, for state-funded schools from the 2022-23 financial year onwards. Our proposals continue to align the NNDR billing period with the financial year.

This consultation complements the government's announcement at Budget 2020 that it would conduct a fundamental review of the business rates system in England. The consultation is aligned with the government's overarching objectives to reduce burdens and improve the existing business rates system. A separate consultation is being conducted by HM Treasury (HMT) to gather views on how the system currently works, areas that need to be addressed and ideas for changes to the taxation of non-domestic property. The Government is currently reviewing responses to the Call for Evidence.

Who this is for

- state-funded schools, including academies and local authority maintained schools
- local authorities and billing authorities
- any other interested organisations or individuals

Issue date

The consultation was launched on 10 March 2021.

Enquiries

If your enquiry is related to the policy content of the consultation, you can contact the team by emailing:

businessrates.consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and DfE's response will be [published on GOV.UK](#) in Summer 2021.

About this consultation

This consultation document suggests changes to the payment of business rates for schools. These changes are split into three sub proposals, as follows:

- **Proposal 1** - Education and Skills Funding Agency (ESFA) pays schools' business rates directly to billing authorities on behalf of the schools, removing the need for local authority maintained schools and academies¹ to make these payments to billing authorities themselves. To enable this, we propose that billing authorities will upload bill data for all schools to the online ESFA system which is already used to collect academies' business rates bill data. In addition, billing authorities will supply payment information to the schools to allow for local accounting for their business rates obligations
- **Proposal 2** - ESFA makes a single reconciliation payment to billing authorities to allow for adjustments before the end of the financial year

The first part of each proposal sets out:

- the current system in place for payment of schools' business rates and why this results in unnecessary burdens

The subsequent parts of each proposal set out:

- how the existing system could be improved and simplified through ESFA paying business rates to billing authorities directly, on behalf of schools

It is important to note that the proposed changes do **not** represent a change in funding levels, but instead represent a more streamlined system which restructures the payment process of existing funding. The funding available to cover the cost of local authority maintained schools' and academies' business rates will remain unchanged. This approach to topslicing dedicated schools grant (DSG) and general annual grant (GAG) funding to streamline cash management is already in place for other payments such as the risk protection arrangement (RPA).

We are inviting interested individuals and organisations to comment on the above proposals.

¹ For the purposes of this consultation, all references to academies are in respect of pre-16 academy school establishments and not 16-19 academies.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If, for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email or post it.

By email

BusinessRates.Consultation@education.gov.uk

By post

Business Rates Consultation
Funding Policy Unit
Department for Education
Sanctuary Buildings
Great Smith Street
SW1P 3BT

Deadline

The consultation closes 5 May 2021.

Proposal 1: Centralising the payment of business rates for local authority maintained schools and academies

Background

In this section of the consultation, we explain the current system in place for the payment of schools' business rates and the substantive changes we propose to make. We invite comments on these changes.

Existing arrangements

Business rates are charged on most non-domestic properties, including schools. Local authority maintained schools and academies have different processes in place for the payment of business rates. Whilst these processes may differ between local authorities, the following is typical.

i. **Local authority maintained schools**

Local authorities receive funding from ESFA for schools' business rates within their dedicated schools grant (DSG). This amount is calculated based on local authorities' actual spend in the previous year. Local authorities set and provide the budgets for local authority maintained schools, which contain business rates funding. Once local authority maintained schools receive a business rates bill from their billing authority, they pay the cost of the bill directly to the billing authority.

It is important to note variations in the existing system across different local authorities, in particular between unitary authorities and two-tiered areas with district councils. In some cases (most notably for unitary authorities where billing authorities are part of the local authority) there is an agreement for the schools' maintaining local authority to make the payment directly to the billing authority. Here, schools are bypassed and do not receive cash for business rates funding from their maintaining local authority via the wider DSG funding - their local authority topslices the DSG in much the same way as suggested in our proposal under a centralised system of business rates payments.

ii. **Academies**

Academies receive a bill from billing authorities for their business rates. Academies then pay their business rates directly to their billing authority.

Individual academies submit claims to ESFA to recoup the cost of their business rates via the [national non-domestic rates return portal](#). Academies with multiple bills and buildings must combine their bill values and enter these

into the form. Academies may be requested to submit their rates bill as evidence, where their claim is significantly different from the previous year or significantly varies from the authority proforma tool (APT) figure local authorities provide on their funding formulae for schools within their authority. Once claims are validated, ESFA directly reimburses academies for the exact cost of their business rates, within 2 months of receiving a claim. This payment is funded outside of the general annual grant (GAG) payments.

Note that alongside this, the cost of academies' business rates is included within the DSG, in order to be allocated according to local authorities' local formulae. However, ESFA recoups this amount from local authorities.

Academies are also able to submit historic claim requests dating back to 2014-15. If academies have neglected to lodge a rates claim during this period, this enables academies to claim the cost of their rates retrospectively.

Proposal and rationale

There is a complex flow of business rates funding, much of which is circular, involving substantial bureaucracy and which serves no benefit to front line services. The existing arrangements involve an unnecessarily resource intensive process, which schools and local authorities have previously raised as a source of frustration. DfE remains committed to reducing such unnecessary burdens wherever possible, to ensure that schools and local authorities can deliver essential public services efficiently.

We are proposing a change to this system for paying rates, to simplify the process and remove unnecessary burdens on schools. We are not proposing to alter the framework for who is liable for business rates. We propose that ESFA pays schools' business rates directly to billing authorities, removing the need for local authority maintained schools and academies to make these payments to billing authorities themselves. We suggest that this new system comes into force from the 2022-23 financial year onwards.

It is important to note that the proposed change does **not** represent a change in funding levels, but instead represents a more streamlined system which restructures the payment process of existing funding. The costs for local authority maintained schools' and academies' NNDR are currently covered by DfE and this would remain the case. The funding available to cover the cost of schools' business rates will remain unchanged.

The revised process for local authority maintained schools and academies

Billing authorities would provide one bulk upload of bill data every year to ESFA, for all the local authority maintained schools and academies within their borough/district. We propose to repurpose the online portal currently used to collect academies' rates data to accept billing authorities' data uploads. We suggest a two month window from the

beginning of March to the end of April for billing authorities to upload this data. Billing authorities may be requested to submit rates bills as evidence, where claims are identified by ESFA as significantly different to the previous year or significantly different from APT figures.

Once billing authority claims are validated, ESFA would pay billing authorities directly, funding the exact cost of business rates for local authority maintained schools and academies within their local authority. We suggest rates payments would be made to billing authorities once a year, with payments received and allocated to accounts by 30 June to inform billing authorities' quarterly return of council taxes and non-domestic rates (QRC1) form for performance reporting purposes.

Historic claims

Transitional arrangements would include bringing academies' ability to make historic claims to an end by the launch of the new business rates payment system. Academies would have until April 2022 to submit any historic claims from the 2014-15 financial year to the 2020-21 financial year. After April 2022, ESFA would no longer accept, process or reimburse academies for historic claims relating to unclaimed years. Frequent reminders will be issued to the sector throughout the next year to provide reasonable notice and sufficient opportunity for academies to bring historic claims up to date.

However, ESFA will continue to accept revised claims arising from historic adjustments. This applies to claims which have previously been submitted to ESFA by an academy (and reimbursed accordingly), but have since been subject to retrospective adjustments which have altered billing amounts. Academies can continue to submit these claims via the online portal. Academies will continue to receive a response from ESFA within 2 months (either reimbursing academies where historic adjustments have resulted in an increase to historic bills, or recouping the appropriate amount where historic adjustments have resulted in a decrease to historic bills). We would encourage academies to submit revised claims arising from historic adjustments by April 2023, where possible. Thereafter, revisions will be communicated to ESFA by billing authorities and academies will no longer need to notify ESFA of revisions.

Liability

Liability for business rates would remain unchanged. Local authority maintained schools and academies would retain liability for business rates, but ESFA would act as a paying agent on their behalf. Schools would, therefore, remain liable for the payment of any penalty charges incurred as a result of an unpaid bill, although DfE would never wilfully neglect to pay a bill. The exception to this would occur if a claim failed validation checks and, following DfE request, the school subsequently failed to provide further supporting evidence or amend their claim.

Therefore, where billing authorities currently send business rates bills to local authority maintained schools, we would suggest that they continue to do so since the local

authority maintained schools and academies are the liable party. Similarly, we propose that academies should continue to receive a bill from billing authorities for their business rates. This will continue to take place at an individual academy level rather than at academy trust level – each academy within a trust will continue to receive a bill for the cost of their own individual business rates. From 2022 onwards we propose these bills be labelled ‘For information only. This bill will be settled by ESFA’. This should prevent schools mistakenly paying the bill and billing authorities receiving duplicate payments.

Given that academies would retain liability for their business rates, despite no longer making the physical payments, academy trusts would still need to account (as a cash payment) for the costs of their business rates. This proposal would make no change to the financial reporting and/or accounting for NNDR by academy trusts. The change in payment process, but unaltered financial reporting requirements, will be communicated to trusts within the DfE-issued annual accounting guidance – the [Academies Accounts Direction](#).

For local authority maintained schools the cost of business rates would be deducted at source by topslicing the DSG. Both ESFA and individual local authority maintained schools would then gross the reduced cash movement back up by the amount of the rates obligation, so that this change does not give the erroneous impression that schools’ budgets are being reduced. Both the local authorities’ and the local authority maintained schools’ budgets would continue to include the rates funding, even though ESFA would no longer pay over physical cash. Otherwise, local authority maintained schools’ account balances would automatically decrease by the value of the business rates cost every year.

Under the revised process, the following burdens would be removed:

i. **Local authority maintained schools**

Business rates will remain part of national funding formula (NFF) allocations to preserve funding for schools. However, since ESFA will be making business rates payments directly to billing authorities, less cash will need to be moved to schools. The main savings here arise from reduced circular information and cash flows between ESFA, local authorities, billing authorities and schools. Under these proposals, billing authorities will still need to inform schools of their business rate liabilities. However, once the school allocations are confirmed ESFA will step in and make direct payments to billing authorities. This will greatly shorten cash payment trails and also lower the resource burden for parties involved. Finally, once ESFA has made payments, schools and local authorities will be able to account for the settling of their business rate liabilities and their full DSG/GAG income from the information previously supplied.

In cases where there is already an agreement for the school's local authority to make the payment directly to the billing authority, local authority maintained schools are likely to experience no change. However, local authorities will still be saved the burden of paying billing authorities for their schools' rates.

ii. **Academies**

Business rates will remain part of NFF allocations to preserve funding for schools. However, since ESFA will be making business rates payments directly to billing authorities, academies would no longer need to submit claims to ESFA to recoup the cost of their business rates via the NNDR return portal. This removes the potential risk that academies incur a cost to themselves if they neglect to claim back the cost of their rates from ESFA. ESFA will no longer need to directly reimburse academies for the cost of their business rates. Academies will no longer need to pay their business rates directly to their billing authority.

iii. **Billing authorities**

There is a potential for reduced burdens in areas with two-tier councils, which would no longer need to facilitate payments across tiers.

DfE and ESFA remain committed to working closely with billing authorities, both in unitary and district councils, to explore how the centralisation of schools' rates payments could be best operationalised. For example, we intend to consider whether it is feasible for bulk payments to be automatically allocated to individual NNDR accounts to avoid the need for manual allocations; and intend to adapt the data upload requirements so they are as easy and straightforward for billing authorities as possible.

Relief: discretionary and mandatory

Under the Local Government Finance Act 1988, local authorities are permitted to grant relief against the business rate liability to certain charitable and non-profit organisations. The above proposals to centralise the payment of schools' business rates would not preclude local authorities offering discretionary business rates relief. Those local authorities which already offer relief for the schools within their local areas can continue to do so and any local authority may start offering discretionary relief, if they choose to do so. As is the current practice, the cost of discretionary rate relief will be shared in accordance with the business rates retention regulations. Local authority and billing authority accountancy practices recording discretionary relief would remain unchanged.

Likewise, the above proposals would have no bearing on the 80% mandatory rates relief received by academies, which would remain unchanged.

Q1. Do you agree that the direct payment of schools' NNDR via ESFA to billing authorities is preferable to the current system?

Q2. Do you anticipate any new burdens as a result of the proposals? Alternatively, would the proposals result in savings for local authorities and schools?

Q3. We are anticipating that billing authorities would provide one upload of bill data to ESFA for all the schools within their borough/district. Is this the best way to collect rates information from billing authorities, and what information would billing authorities need in order to provide the required upload of bill data?

Q4. Where multiple billing systems exist within local authorities, what issues would this proposal raise?

Q5. In local authorities where discretionary relief is provided, how could this best be taken forward under the new system?

Q6. Are there any issues of detail that would need to be resolved in order to implement this proposal? One that occurs to us is how to handle schools occupying sites that also have other bodies on site, such as a children's centre.

Proposal 2: Reconciliations

Background

In this section of the consultation, we explain how we propose to adapt the current process of reconciliation for schools' business rates to fit into our proposed changes under Section 2, Proposal 1. We invite comments on these proposals.

Proposal and rationale

Existing arrangements

Billing authorities can send a revised bill to local authority maintained schools and academies at any point during the year. Revised rates bills can be generated as a result of changes to school buildings, or due to revaluations when the Valuation Office Agency (VOA) adjusts the rateable value of properties to reflect changes in the property market.

i. **Local authority maintained schools**

For local authority maintained schools, adjustments to bills are handled in the same way as when the amount invoiced by the billing authority differs from the amount allocated to the local authority maintained schools in their budget. That is, local authority maintained schools contact their local authority. The local authority then has the option to adjust the local authority maintained schools' budget in-year or adjust using the APT with changes reflected in the budget for the following year.

ii. **Academies**

When academies receive a bill adjustment, they submit the revised invoice via the online claims portal. ESFA then adjusts the amount owed by either clawing back excess funds or topping up any shortfalls. Academies are also able to submit historic adjustment requests dating back to the 2014-15 financial year. If these historic adjustment requests pass validation checks, the resulting ESFA clawback or top-up payment can cover the totality of this period.

The revised process

Under the new system, billing authorities would be able to communicate any changes to school's rates bills directly to ESFA via the online portal, alongside informing the school as ratepayer (and the liable party for rates). We propose re-opening the online portal to accept reconciliation uploads of adjusted bill amounts after the initial claims window has closed at the end of May. We suggest opening the portal from May to March for this purpose, allowing for continuous uploads throughout this time. Recent stakeholder

engagement with billing authorities indicates that this approach would be preferable to requesting a bulk upload of adjustments at discrete points throughout the year.

We suggest ESFA makes reconciliation payments to billing authorities once a year to account for any adjustments. We propose that reconciliation payments are made by mid-March, in any given rates assessment period, to ensure sufficient time for payments to be received and allocated to billing authority bank accounts by 31 March. These timings should be sufficient for reconciliation payments to be reflected within billing authorities' in-year collection rate, a reporting measure which informs billing authority performance. This should eliminate the potential for outstanding business rates debts from schools to inadvertently adversely impact billing authority reporting performance.

For any adjustments to business rates bills made after the closing date of the reconciliation claims window, we propose these be submitted once the reconciliation claims window reopens in May of the next financial year.

As stated in Section 1, Proposal 1, billing authorities may be requested to submit rates bills as evidence, where claims are identified by ESFA as significantly different to the previous year or significantly different from APT figures. We propose adjusting our validation thresholds in national revaluation years to account for changes to the uniform business rate multiplier and changes to schools' rateable values. This adjustment should prevent schools exceeding ESFA validation threshold where changes to business rates are a result of the revaluation, and thereby avoid the need for billing authorities to unnecessarily submit additional bills to ESFA as evidence.

Under the revised process, the following burdens would be removed:

i. Local authority maintained schools

If local authority maintained schools no longer receive cash from local authorities for their business rates, both local authority maintained schools and local authorities can be removed from that reconciliation process. However, since national funding formula (NFF) funding would still be allocated, some reconciliation work to match up revised rates assessments and topsliced dedicated schools grant (DSG) receipts would be required. Local authority maintained schools will no longer need to monitor discrepancies between the amount invoiced by the billing authority and the amount allocated in their budgets.

ii. Academies

Academies will no longer need to submit revised business rates invoices via the online claims portal, as billing authorities will do this on their behalf. Academies will no longer be asked to reimburse ESFA where business rates bills have been reduced, nor receive top-up funding to cover shortfalls where business rates bills have increased. However, academies would still need to

be informed of revisions in order to accurately account for amended business rates costs.

iii. **Billing authorities**

Changes to schools' rates bills will be corrected in-year and the potential for lagged adjustments (which arose when local authorities chose to adjust the following year's budget using the APT), will be removed.

The reconciliation process would operate between ESFA and billing authorities, significantly minimising the demand on schools. However, local authority maintained schools and academies would still be informed of changes in order to achieve correct local accounting.

Q7. If the direct payment of rates is implemented, would payments made once a year (in June) with a reconciliation for any adjustments at the end of the year (in March) be workable for billing authorities?

Q8. To ensure payments are properly reconciled at the end of the year, could billing authorities provide any revised claims via the online portal between May and March?

Annex A: Public Sector Equality Duty

Background

In this annex we set out the public sector equality duty and our equalities impact assessment on the changes proposed in this consultation. We welcome your views on the equalities impact of our proposals for change.

The Public Sector Equality Duty

The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:

- Age
- Disability
- Gender Reassignment
- Pregnancy and Maternity
- Race (including ethnicity)
- Religion or belief
- Sex
- Sexual orientation

Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
 - tackle prejudice, and
 - promote understanding

Consideration of the protected characteristics identified in the Equality Act 2010

This is an assessment, pursuant to the public sector equality duty, of the potential impact of our proposals to reform the business rates payment process. The Equality Act 2010 identifies eight protected characteristics, as set out above.

Having considered the consultation proposals in relation to each of the eight protected characteristics, our initial assessment is that we have identified no evidence to suggest there would be a negative impact on equalities. The proposals above focus primarily on an operational change which will reduce the bureaucracy that schools, local authorities and billing authorities face under the current business rates payment system. The proposals are unlikely to have any noteworthy effect on staffing needs within schools, local authorities and billing authorities. Young people attending the academies and local authority maintained schools included within our proposals are unlikely to be impacted at all by changes to the business rates payment process. We conclude that the proposed changes set out above are likely to have a **neutral** impact on individuals with protected characteristics.

- Age – We have not identified any potential negative impact related to age.
- Disability – We have not identified any potential negative impact related to disability.
- Gender Reassignment – We have not identified any potential negative impact related to gender reassignment.
- Pregnancy and Maternity – We have not identified any potential negative impact related to pregnancy and maternity.
- Race (including ethnicity) - We have not identified any potential negative impact related to race (including ethnicity).
- Religion or belief – We have not identified any potential negative impact related to religion or belief.
- Sex – We have not identified any potential negative impact related to sex.
- Sexual orientation – We have not identified any potential negative impact related to sexual orientation.

We welcome stakeholder feedback on this topic.

Q9. Please provide any information that you consider we should take into account in assessing the equalities impact of the proposals for change.

Annex B: Consultation Questions

1. Do you agree that the direct payment of schools' NNDR via ESFA to billing authorities is preferable to the current system?
2. Do you anticipate any new burdens as a result of the proposals? Alternatively, would the proposals result in savings for local authorities and schools?
3. We are anticipating that billing authorities would provide one upload of bill data to ESFA for all the schools within their borough/district. Is this the best way to collect rates information from billing authorities, and what information would billing authorities need in order to provide the required upload of bill data?
4. Where multiple billing systems exist within local authorities, what issues would this proposal raise?
5. In local authorities where discretionary relief is provided, how could this best be taken forward under the new system?
6. Are there any issues of detail that would need to be resolved in order to implement this proposal? One that occurs to us is how to handle schools occupying sites that also have other bodies on site, such as a children's centre.
7. If the direct payment of rates is implemented, would payments made once a year (in June) with a reconciliation for any adjustments at the end of the year (in March) be workable for billing authorities?
8. To ensure payments are properly reconciled at the end of the year, could billing authorities provide any revised claims via the online portal between May and March?
9. Please provide any information that you consider we should take into account in assessing the equalities impact of the above proposals.



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