Northern Ireland Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Non-domestic Rates Valuations (Coronavirus) Bill: Institute of Revenues, Rating and Valuation

13 December 2021

NORTHERN IRELAND ASSEMBLY

Committee for Finance

Non-domestic Rates Valuations (Coronavirus) Bill: Institute of Revenues, Rating and Valuation

13 December 2021

Members present for all or part of the proceedings:
Dr Steve Aiken (Chairperson)
Mr Keith Buchanan (Deputy Chairperson)
Mr Jim Allister
Mr Pat Catney
Ms Jemma Dolan
Mr Philip McGuigan
Mr Maolíosa McHugh
Mr Matthew O'Toole
Mr Jim Wells

Witnesses:
Mr David Magor OBE Institute of Revenues, Rating and Valuation

The Chairperson (Dr Aiken): Hi, David. Can you hear us OK?

Mr David Magor (Institute of Revenues, Rating and Valuation): I hear you very clearly, yes.

The Chairperson (Dr Aiken): Good.

We are about to receive oral evidence, via StarLeaf, from David Magor OBE, who is the chief executive of the Institute of Revenues, Rating and Valuation, on the Non-domestic Rates Valuations (Coronavirus) Bill. The session will be recorded by Hansard.

David, you are very welcome to the Committee for Finance. We have invited you to the meeting to hear your views on the Non-domestic Rates Valuations (Coronavirus) Bill. The Bill will remove, largely, anything that relates to the pandemic as the basis of appeals about business rates valuations, and that will be backdated to 1 April 2020. Please take about 10 minutes or so to tell us what you like or dislike about the Bill. Perhaps you can tell us how you would like to see it being amended, if at all. Will you, first, update us on how similar legislation is going through Westminster at the moment?

Mr Magor: Yes. The situation arose in England as a result of a press release that one of the firms of rating agents issued. The appeals process in England is different from that in Northern Ireland. It is a three-stage process of check, challenge and appeal. A number of ratepayers had put challenges in against their values as a result of the coronavirus pandemic. That was done under the rules that enabled coronavirus to be regarded as a material change of circumstance. Those particular appeals were placed before the Valuation Office Agency, and negotiations took place between it and the individual ratepayers and their agents. Whilst that process was under way, one of the agents issued a

press release to say that it had secured a significant reduction on behalf of its clients and that their clients would be getting a significant refund. The figure quoted was in the hundreds of millions of pounds. That immediately caused concern right across government, and, as a result, the Government very quickly put in place a revision to the regulations that would immediately stop any further challenges on rating value being made on the basis of the coronavirus pandemic. That particular regulation passed very quickly and became law from that date, which was in early summer 2020. Of course, there was the problem of retrospection, which became a major issue, because it has to be taken back to when the pandemic started. The regulation did not allow for retrospection, however.

The Bill has now passed through Parliament. It went to the House of Lords and did not come back to the House of Commons because there were no amendments made in the Lords, so it went straight to the Queen for Royal Assent.

Whilst that process was going on, the Government announced that they would create a coronavirus relief fund of £1·5 billion that would be paid to people whose businesses had suffered as a result of coronavirus and the consequences of the pandemic. As soon as the Bill receives Royal Assent, the Government will issue guidance on the distribution of the £1·5 billion. The effect of the Bill's becoming an Act will be to prevent any retrospection of the original regulation. The problem facing local government in England now is how the £1·5 billion will be distributed. Ratepayers' expectations have been raised by the fact that they had made appeals and that some agents had made progress with a valuation officer in securing reductions. Of course, those reductions will not happen now. Unfortunately, there is a disconnect between —

The Chairperson (Dr Aiken): Sorry, David, but I have a quick question. Even though the reductions had been agreed, when the Bill, with its retrospective aspect, goes through, those reductions will no longer happen, so the original rating value will apply. Is that correct?

Mr Magor: That is absolutely correct, yes.

The Chairperson (Dr Aiken): OK. Sorry for interrupting you.

Mr Magor: The £1·5 billion will be distributed on the basis of the success of an individual business and the impact of the coronavirus pandemic on it. No account at all will be taken of the fact that the business owner may or may not have appealed using the material change of circumstance power. Businesses find themselves awaiting the initial distribution of the £1·5 billion to the 314 individual billing authorities in England. Each billing authority will then have to distribute that sum to individual ratepayers on the basis of guidance given by the Government. That guidance has yet to arrive, so it is a waiting game in England at the moment, with considerable uncertainty. As I said, the expectations of certain ratepayers have been raised, but I do not think that they will be met, because the criteria for giving out the £1·5 billion are different. That is the situation in England, and we await its final stages.

The Chairperson (Dr Aiken): Thanks very much indeed. I have just a couple of questions, David. One of the problems that we have with the legislation that is likely to be enacted in Northern Ireland is its catch-all language. It refers not just to COVID as the event. It refers to COVID and — what is the language? —

The Committee Clerk: It refers to "other pandemics", I think.

The Chairperson (Dr Aiken): — other pandemics. Is the same language used in the English legislation, or is it purely focused on COVID?

Mr Magor: It is catch-all legislation as well, because this situation is unique, and the legislation is attempting to prevent it from happening again. Exactly how the provisions can be used in future has been specified, but the problem with that is the underlying issue of the financing of local government. The valuation process is basically a distribution mechanism to determine how the business rates that are collected are distributed to each local authority, and that is where the problem is. Reductions created by situations such as the pandemic force the chief financial officers of local authorities to make provisions for any money that they may lose as the result of the reductions in value. That risk will now be removed, and that is why the legislation in England is a catch-all provision.

Mr Allister: I take it that there is no dispute that the assessment of the rateable value would, in the normal course of events, be affected by a matter such as COVID and that the purpose of this

legislation is to circumvent that, on the basis that businesses got financial assistance. Is that the reasoning behind it?

Mr Magor: That has been mentioned in the statements from the Government, but, until we get the guidance, we do not know whether that will be the situation. Comment has been made about those who have been in receipt of relief, such as the relief for retail, hospitality and leisure (RHL) properties, or who had received payment from the Government through the various schemes, not being entitled to the relief. At the moment, that is nothing more than ministerial comment, made in Committee and in various government circulars. We will not know until we see the guidance and find out exactly what it says.

The £1·5 billion will be distributed to local authorities via a mechanism under the Localism Act 2011, meaning that we use a provision in the legislation that gives the local authority unfettered discretion to distribute the money as it sees fit. It has to have regard to government guidance, however, which is why the guidance is so critical. The comment you make is absolutely correct.

Mr Allister: Would another possible approach have been to say that, at any appeal against a valuation because of the COVID impact, the money received in assistance would be measured and evaluated to offset the losses resulting from COVID? Is that not the other way of doing this legislation?

Mr Magor: There is a different approach. The slight difference between England and Northern Ireland is that, in England, the rate poundage, or the multiplier, is set nationally. That is distributed by government through a rate retention scheme, whereby a proportion of the money is retained and the balance is distributed to local government. That distribution mechanism could have been utilised to compensate individual local authorities for the loss. If that approach had been taken, values would have reflected the current relationship between the landlord and the tenant, because that is basically how the valuation process is determined. The distribution of the relief could have been avoided, and local authorities would have been compensated.

In Northern Ireland, it is a slightly different situation. Let us say that this legislation does not pass in the current financial year and carries over to next year. At the moment, directors of finance in the 11 local authorities in Northern Ireland are preparing their budgets and calculating their penny rate product for next year. In calculating their penny rate product, they have to have regard to the income that they are likely to get next year. If they are aware that there is a possibility of a reduction in assessment, they have to include that in their calculations and make provision for it so that the amount of revenue that they collect is sufficient. The impact of that would be to lift the rate poundage.

Mr Allister: My point is different. You have seen our Bill, I take it?

Mr Magor: Yes, I have.

Mr Allister: In clause 1(1), if, instead of stating that the matters mentioned in paragraph (1A) of article 39A of the Rates (Northern Ireland) Order 1977:

> *"are to be treated as not including, and as never having included, any matter directly or indirectly attributable to coronavirus",*

you had permitted the appeals but said that, for such appeals, matters mentioned in article 39A(1A) are to measured and evaluated having regard to any financial assistance arising from the COVID assistance packages, could you not then have kept the net annual values (NAVs) informed by that and arrived at a more equitable outcome?

Mr Magor: In that case, the integrity of the valuation list would have been maintained, because the valuation list would reflect the current situation. From listening carefully to what you have just said, I think that the important thing is that that would be a mechanism whereby local authorities would reimburse the money. That is absolutely key. If you were to reduce the values, each of the individual ratepayers would get a refund. That money would be taken away from the individual local authority's exchequer. The only way in which it could recover that money would be through support from the Assembly, by borrowing the money or by using their balance to adjust its poundage for the following year. That would certainly be a workable solution, provided that the chief financial officer had the opportunity to make the adjustment in the local authority's penny rate product for the next year.

Mr Allister: Thank you.

Mr O'Toole: Thank you for giving evidence. This question relates to the Bill that is going through Westminster. You have just answered a question about a hypothetical alternative to a Bill here, but what is the institute's view on any potential alternatives? Are you broadly content with the approach taken by the UK Government, or would you have preferred an alternative route to have been taken?

Mr Magor: We were broadly content. We see the pandemic and similar types of crises as being one-off situations. One hopes that this will not happen again, but you need to be able to cater for such situations. One of the advantages of using a property tax is that it is relatively stable. The pandemic has proved, however, that that stability is not as certain as we thought it was. The general feeling is that this is a reasonable way forward and that the other financial assistance given by government — the direct assistance — is a better way of achieving the objectives than disturbing the integrity of the valuation list.

Mr O'Toole: When it comes to disturbing the integrity of the valuation list, surely a potential challenge is that the scale of the pandemic and its effect on people's ability to transact business — particularly for certain types of businesses that have physical premises, such as hospitality and certain types of retail — is such that they have taken such a big hit as to make the ratings list redundant anyway. What would you say to that counterargument?

Mr Magor: That is correct. The real problem is that the ratings system has had an appeals process from time immemorial, and that appeals process has triggered the cumulative rateable value for a local authority area, whether that be in Scotland, Northern Ireland, England or Wales. What you see is a reduction in the value and an increase in the poundage, but the rateable values for the individual properties would at least then reflect the market. That is basically what the ratings system is: a system that creates a distribution mechanism that is based on rental values or substituted valuation methods for rental values. That is the basis of the system. In a situation such as the pandemic, in which there is a severe loss of income as a result of one circumstance, you have to decide on which way you will deal with it: you either have to let the list take the hit so that the rateable values go down and the poundage or the multiplier increases, or the Government have to support individual ratepayers directly with reliefs, such as RHL relief.

Mr O'Toole: OK. That is helpful.

Mr K Buchanan: Thank you for the information so far, David. I have just one question, David. You referred to the guidance on the £1·5 billion. Will that guidance be implemented here, at is this a purely devolved matter? If there is £50 million, which I understand the figure to be, to come to Northern Ireland, will that guidance be reflected in any way here?

Mr Magor: That will depend on your decisions. The £1·5 billion that the Treasury has announced for England and, to a lesser extent, Wales is an amount of money that we know is going to be distributed in lieu of the removal of the material change of circumstance appeals. The ratepayers will therefore be getting that money.

The Government have outlined how they want it distributed. That is the choice of the Government based on the various reliefs that have been paid out in England. As far as Northern Ireland is concerned, I think that you have had similar reliefs, and, in many respects, those reliefs have been more generous.

I assume that that £50 million will come to you as a Barnett consequential, and you will have the discretion to spend that money how you wish. If that money were to be used to support ratepayers, it would be for you to decide at some time in the future how that would best support individual ratepayers. It could be distributed individually to those who were expecting to get some form of relief or it could be paid to every ratepayer as an extension of whatever reliefs you may be giving next year.

You have the flexibility to spend that money as you wish. I would not have thought that the guidance issued by Parliament for England would in any way influence your decisions, because it is dealing with the particular circumstances in England and the way in which the rating appeals process has worked in England. The reality is that, in RHL cases, for example, those properties have hardly paid any rates for the past two years. You could hardly give them a significant amount of relief if they have not paid any rates. It is difficult to juggle those balls in the air, I am afraid.

Mr K Buchanan: OK. Thanks, David.

The Chairperson (Dr Aiken): I have a quick one. The £1·5 billion is going to be made available when the Bill receives Royal Assent and becomes law. Do businesses have to spend what they receive from that by the end of the financial year?

Mr Magor: No. It is an amount of money that will be distributed. The way in which things are looking at the moment, because the local authority will have absolute discretion to make up its own mind, in order to ensure that the amount is distributed fairly, I would have thought that applications would have to be received from those who feel that they are entitled to some relief before the local authority starts to distribute the money. Otherwise, it will run out.

Even if the guidance were to come towards the end of this week, before Parliament rises on 16 December, the chances of local authorities putting in place a scheme, making the decision as to whether it was delegated to officers or it was for elected members to make the decisions on the relief and then having that relief in place in the current financial year would be a very difficult task to achieve. I am sure that local authorities will try to achieve that, but I suspect that the majority of the money will be allowed against next year's rating liability.

The Chairperson (Dr Aiken): We were briefed that one reason to get our legislation through urgently is because, if we do not do it by the end of this financial year, we will lose the £50 million that is due to come across as a Barnett consequential, as it has to be spent before then. That is not the situation as you see it in England and Wales, however.

Mr Magor: No, but remember that the problem in Northern Ireland is that, if your legislation does not go through before the end of the current financial year, the chief financial officers of the 11 local authorities are going to have to look at their rate poundage calculations, because they need to make provision for any loss of income. If, for some reason, the legislation were to fall, and they had not made sufficient adjustments for the loss of income in calculating the penny rate product, and, consequentially, the rate poundage, they would not have sufficient money to run services for next year, and they would then have to turn to you, no doubt, for the extra financial support or else use their balance.

The Chairperson (Dr Aiken): I will go back to the business about COVID and/or other infections. Does the Westminster Bill mention any other infections? Is it just COVID that is mentioned, or something similar?

Mr Magor: It is just COVID-related. It is not broadened in any way.

The Chairperson (Dr Aiken): Have you picked up on any conversations that there might be something being developed for avian flu and some of the other pandemics potentially out there?

Mr Magor: No. That has not been discussed at all. The hope is that the adjustment in the material change of circumstance regulations will be sufficient to meet any future pandemic situations.

The Chairperson (Dr Aiken): Thank you.

Members have no other questions or comments. David, thank you very much for your time and for making yourself available at short notice to talk to the Committee.

Mr Magor: Thank you. Goodbye.