



Which way for rates appeals?

Business rates can be confusing and a new appeal system in England has done little to help the situation. *C-Store* examines the new regime

M myriad reliefs implemented piecemeal over decades have created a business rating system many convenience retailers judge unfair, inconsistent and overcomplicated.

The past two Budgets have paved the way for reform and in England the appeals system was overhauled and replaced by a new regime which came into effect on 1 April. This was the date the new business rates based on the latest property revaluations also took effect.

Yet it seems that many convenience store operators don't understand the changes.

Manny Patel, owner of Manny's in Long Ditton, Surrey, suggested simple guidance was required on how the new appeals system works. As it stands, whether the appeals system works at all will take time to ascertain; it is so new that rating

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experts can only explain how it is designed to work.

Ken Batty, managing director of Ken Batty Chartered Surveyors, says England is entering "very, very new territory" so he can only give an opinion based on precedent and the way he sees "matters developing in the future".

The vagaries of the new system will not be resolved until rating specialists enter deeply into negotiations with the Valuation Office Agency (VOA).

Batty thinks the appeals replacement system, Check, Challenge, Appeal (CCA), is "a nightmare scenario deliberately designed to deter appeals being made".

“The requirement for evidence at the challenge stage, together with the long-winded CCA process, is the government’s attempt to cut down on appeals”

He believes the number of appeals will substantially decrease, at least in the early stages, and "unless substantial changes are made to the regulations".

Now, instead of a relatively straightforward appeal, applicants must go through three stages.

First, go to www.gov.uk/correct-your-business-rates and **CHECK** your rating assessment. You will have to answer a lengthy series of online questions.

Once you have done that you can decide whether to **CHALLENGE** the details - yet more online questions. This is submitted online to the VOA, which has 12 months to respond.

Only then can an **APPEAL** be made, but this time there is a cost, which had not yet been fully determined at the time of writing. Previously no charge was imposed unless you paid for an agent to →

← do it for you. It is thought £300 will be the most likely fee - subject to hardship exemptions - to lodge an appeal with the Valuation Tribunal. The fee will be refunded if the appeal succeeds.

The government has good reason to want to deter appeals, given that so many are spurious and in the past have been encouraged by "cowboy" rating experts who Batty says are not professionally qualified, not fully conversant with ratings and interested only in extracting upfront payment for no service other than saying that this is to "register" their case.

Deterring appeals

About 250,000 appeals are outstanding, most of which date back to the 2010 ratings list, and some 800 as far back as 2005.

Peter Chapman, partner - head of rating & compensation at Cluttons, says the government hopes the new CCA process will substantially reduce the number of future appeals as it believes most cases will be resolved at the challenge stage. He adds: "In my opinion, the appeal submission cost of £300,



Ratings experts believe the cost and complexity of the CCA procedure will put off many retailers from making an appeal

together with the costs associated with the Valuation Tribunal appearance, will dissuade ratepayers from proceeding to this level."

He adds: "Without wishing to be cynical, the requirement for evidence at the challenge stage,

together with the long-winded CCA process, is the government's attempt to cut down on appeals which could take over three years to resolve. In my view this does not introduce an improved system."

Batty says he is worried about the introduction of something known as "reasonable valuer judgment".

This could mean that when a case goes to Tribunal under the new system at, say a rateable value of £20,000 and it is agreed that it should be reduced to £18,000, "this would prove a futile victory as under valuer judgment the Tribunal would not amend the list - this is clearly wrong", says Batty.

He bases this on rating professionals' belief that valuer judgment will allow a margin of error of about 10%, although some are suggesting as much as 20%. This means the amount of business rates payable will not change if the variance is within the margin of error levels that will become apparent with time.

It is the issue of valuer judgment which particularly worries the Association of Convenience Store (ACS), too. ACS chief executive James Lowman says: "The language on rates appeals was marginally changed in a government response after the Budget, but the problems still remain. Whether the term is 'reasonable professional judgment' or a view from the Valuation Tribunal for England on whether a valuation is reasonable, businesses may still be denied an accurate →

CHECK, CHALLENGE APPEAL - A CONVENIENCE STORE'S GUIDE

Check

No appeal can be made unless a check of information has been completed.

In order to make an appeal a request must be made to the Valuation Office Agency (VOA) on what information they hold about the property.

The VOA must provide the information if it relates to any possible grounds for an appeal and if the VOA considers it "reasonable" to do so.

The appellant must correct or confirm this information, with supporting documentation on receipt from the VOA.

The VOA must issue a dated acknowledgement on receipt. This is

known as the material day. "As soon as reasonably practicable", the VOA must serve a notice stating that the check has been completed.

Challenge

This is only possible once VOA notice of completed check received. Serving the appeal must be by the VOA's electronic portal or other method agreed with

the VOA. It requires not only the grounds to be stated but "particulars on which the grounds are based".

Evidence to support the grounds and a statement of how the evidence supports the grounds must be given.

The current rent, the date from which it was first payable and details of any rent-free periods

must be supplied.

Either agreement with challenge or disagreement including a statement of the evidence and information are used to make the decision.

VOA may alter the "rating list" (business rates) to a different figure than that proposed.

Appeal

The proposer may appeal on the grounds that "the valuation for the hereditament is not reasonable".

The proposer must send notice of appeal to the Valuation Tribunal for England (VTE).

It then goes to an appeal hearing with the VTE.

Source: ACS



rating assessment. Businesses still need absolute clarification from government that if their rates bills are found to be too high, they will not end up overpaying."

The ACS says the new system was supposedly designed to allow ratepayers to navigate the system without an agent.

Lowman says: "We expect most to still use an agent due to complexity of the system. There are fines for submitting false information - this will deter ratepayers from navigating the system themselves."

The ACS believes it is unlikely that unrepresented retailers will have the ability to produce all relevant evidence in relation to their rateable value within the four-month Challenge timescale.

Specialist help

Even with the development of a package of advice and online systems, the ACS thinks most unrepresented ratepayers in the convenience sector will still seek advice from a professional rating agent.

Peter Chapman agrees: "In view of the potential complexity relating to the new CCA process, I suggest that this might be beyond the average ratepayer, particularly the production of rental evidence on comparable properties at the challenge stage and appearing before the Valuation Tribunal as an expert witness."

He says businesses can initiate the appeal procedure in line with the CCA process at any time up to 31 March 2022 in England. In Scotland, where little has changed, a standard appeal will need to be submitted before 30 September this year and, in Wales, at any time up to 31 March 2022.

Scotland is reviewing its own system and those wishing to have Appeal Committees hear their appeals north of the border will have to pay a fee for the first time, says Batty.

Appeal fees for Tribunals Wales are also likely to be on the cards, believes Batty. The Welsh Assembly is thought to be considering amendments to its rating regulations in the future.

Chapman's particular concern is that he says few staff at the VOA have an understanding of how the new system will work, which has not inspired any confidence in businesses wishing to raise concerns about how the rateable value upon

RETAILERS' VIEWS

What convenience store operators say

"I have limited understanding and knowledge of the new Check, Challenge and Appeal system.

"I think a system of rating businesses should be a combination of property value and turnover.

"We live in a lively village where property is expensive, but only have a small shop so our turnover is low.

"We have been paying 50% business rates for some time, despite being a small business. This has been amended to 100% relief, but we have not been

“Rating businesses should be a combination of property value and turnover”

offered any money for the years in which we paid 50% before."

**Sally Gibbons,
Lealholm Village Shop, North Yorkshire**

"I don't understand the new system. I know you can go online and challenge



“I don't understand the new system. I know you can go online and challenge it, and that's it”

it, and that's it. A lot of us have been duped in the past by rogue companies who promise the earth and don't deliver. They are still doing this.

"My rateable value has gone up from £14,000 to £16,000. I don't get any relief because I am over the threshold. What does a small business get for paying non-domestic rates? Nothing."

**Manny Patel
Manny's, Long Ditton, Surrey
(pictured above)**

"I understand the Check, Challenge, Appeal process. People have been quite negative about it. I do sympathise with the VOA; there are companies blocking the system with appeals, so I do understand we need to get rid of that.

"There are people saying 'let's just have a try at it'. I can see both sides.

"Forecourts are measured differently from the rest of the c-store sector in that we have to put our turnover in. That's really unfair because our turnover is quite high, regardless of our profit.

"My business rates have gone up from £52,000 to £106,000 a year. It's a direct tax on investment.

"We invested £1m

in a full knockdown and rebuild of our Oxbridge Lane forecourt and since then our rates have soared because of increased turnover, but the only reason we increased our turnover is that we invested that £1m in 2010.

"My bank borrowings are higher and my interest is higher.

"We bought our other site in Fairfield to invest in and built a bigger site because it's got the land, but why would we do it?"

“The more you build your business, the more penalised you are”

"The way the Oxbridge Lane business is rated now means the shop loses money. The other one doesn't and the business rates went up only 4-5%.

"The more you build your business, the more penalised you are and the more money you lose."

**John Stevenson,
Nisa, Stockton-on-Tees**

which their rate liability is based has been arrived at.

A spokesman for the VOA says: "Previously, with the old system, any interested party could submit an appeal with little or no evidence to support it. This is why more than 70% resulted in no change."

He says the CCA system has been designed around "customer

needs". "There is no requirement to appoint an agent, but they can choose to do so at any point in the process," he adds.

Want to know more?

→ For further guidance go to <https://www.gov.uk/guidance/how-to-check-your-rateable-value-is-correct>