



Department for  
Communities and  
Local Government

# Council Tax and Business Rates Powers of Entry

Response to Consultation



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# Contents

Introduction	3
Background	3 - 4
Government Proposal	5
Summary of Consultation Responses	5 - 7
Government's Response and Next Steps	7

## Introduction

1. The Government is committed to protecting individuals and businesses from unnecessary intrusion into their homes and business premises by public bodies.
2. The Protection of Freedoms Act 2012 places a duty on Government Departments to review their legislation which provides for powers of entry. This Statutory Powers of Entry Review demonstrates the Government's commitment to ensuring that private and family life is respected at all times, ensuring that the privacy of citizens' homes and businesses is protected.
3. The Department for Communities and Local Government has reviewed its stock of regulations to identify and examine each individual regulation with a power of entry attached to see if that power:
  - is still required or should be repealed;
  - should have further safeguards added to it; or
  - can be consolidated with other similar powers, to reduce the overall number.
4. The purpose of the Powers of Entry Review has been to ensure greater consistency in the exercise of powers of entry and greater clarity for those affected by them while upholding effective enforcement.
5. The intention of Government is that public authorities should have fewer powers to enter people's homes and that the privacy and rights of homeowners and businesses should be protected and strengthened wherever possible. It is essential that powers of entry, as with any enforcement power, achieve the right balance between the need to enforce the law and ensure public protection and to provide sufficient safeguards and rights to the individual.

## Background

6. The Valuation Office Agency is a Government agency of HM Revenue and Customs responsible for assessing domestic property and assigning council tax bands and for assessing non-domestic properties and assigning a rateable value.
7. Following the powers of entry review the Department has identified two powers operated by the Valuation Office Agency which it proposes to amend. These are
  - section 26 of the Local Government Finance Act 1992; and
  - paragraph 7 of Schedule 9 to the Local Government Finance Act 1988
8. Both these powers of entry are operated by the Valuation Office Agency's Officers and Valuation Officers as part of their duty to assess domestic and non-domestic properties for banding purposes and rateable values respectively.
9. Section 26 requires a listing officer, wishing to internally inspect a property for banding purposes, to provide three days' notice in writing to the owner/occupier of

the property. If the owner/occupier obstructs or refuses entry to the Listing Officer then they shall be liable to a fine at level 2 on the standard scale (currently £500). The power has been in place since 1993. However, to date, no person has been fined.

10. Paragraph 7 of Schedule 9 to the Local Government Finance Act 1988 requires a Valuation Officer, who needs to survey and value a property for business rates purposes, to provide 24 hours' notice in writing. If any person obstructs or refuses entry to the Valuation Officer then they shall be liable to a fine at level 1 on the standard scale (currently £200). The power has been in place since 1988. However, to date, no person has been fined.

## **Government proposal**

11. The Government believes that the privacy and rights of homeowners and businesses should be protected and strengthened wherever possible. This includes protection from unnecessary and intrusive visits into a taxpayer's home or business. However, the Valuation Office Agency has a duty to maintain accurate local valuation lists which may necessitate, on a case by case basis, an internal inspection.

12. The Government proposed to:

- Where the owner does not allow entry by consent, introduce a requirement for the Valuation Office Agency's Listing Officers and Valuation Officers to seek the authority of the tribunal, to enter. If entry is still not given then the taxpayer may be subject to a fine.
- Reduce the existing fine level for council tax and align it with business rates to level 1 of the standard scale (£200).
- Align the written notice period sent by the Listing Officers and Valuation Officers in advance of a visit given to council taxpayers and business ratepayers, to three days.

13. This document summarises the responses to the consultation and sets out the Government's response.

## **Summary of consultation responses**

14. The Department for Communities and Local Government published a four-week consultation aimed at the general public on 23 January 2015 with a deadline of 20 February 2015.

15. The Department for Communities and Local Government received 23 general responses to the consultation, 17 of which are from local authorities, the rest are from the Valuation Tribunal for England, Institute of Revenues, Rating and Valuation, Big Brother Watch (civil liberties and privacy campaign group), a personal opinion from a Partner at a firm of Surveyors and Valuers (who is also

member of the Royal Institution of Chartered Surveyors and Rating Surveyors Association) and two personal views from members of the public.

16. Seven respondents agreed with all of the proposals set out in the consultation document as they thought it would enhance the powers of the Valuation Office Agency whilst protecting the occupiers.

**Q1. Do you agree that Listing Officers and Valuation Officers should be made to seek, if consent is not given by the occupier for them to enter the property, the authority of the tribunal before exercising their power of entry?**

17. Ten respondents agreed that Listing Officers and Valuation Officers should be made to seek, if consent is not given by the occupier for them to enter the property, the authority of the tribunal before exercising their power of entry. Of those ten, one respondent in particular noted that this would increase the level of transparency and would protect taxpayers and officials from claims of wrongful entry. Twelve respondents thought that this would add another stage in the process which would cause delays in issuing timely Council Tax and Business Rates bills. Of those twelve, one respondent suggested the power of entry should be repealed. One respondent did not provide a response to this question.

**Q2. Do you agree that the fine level should be set at level 1?**

18. There were mixed views on whether to reduce the fine level for council tax and align it with business rates to level 1 of the standard scale. Ten respondents thought that at £200, a level 1 fine was proposed as a reasonable amount to ensure that homeowners do not needlessly block entry and is severe enough to provide a deterrent, but not so large as to be needlessly harsh. Ten respondents suggested a higher fine level at level 2 to be of proper consequence and to act as deterrent to a refusal of entry/inspection. Of those ten, one respondent emphasised that it needs to balance with the fact that other law abiding taxpayers subsidise those that do not comply with this provision through increased administrative costs. Three respondents did not provide a response to this question.

**Q3. Do you agree that the notice period for non-domestic should be three days?**

19. Sixteen respondents agreed with aligning the written notice period sent by the Listing Officers and Valuation Officers in advance of a visit given to council taxpayers and business ratepayers, to three working days. However, five respondents suggested a longer notice period (e.g. two or three weeks to allow for people being on holiday). Two respondents did not provide a response to this question.

**Q4. Do you think the proposals set out in this consultation paper sufficiently protect the privacy and rights of homeowners and businesses?**

20. Thirteen respondents agreed that the proposals set out in the consultation paper sufficiently protect the privacy and rights of homeowners and businesses. Six respondents thought that sufficient protections already exist for taxpayers. Four respondents did not provide a response to this question.

## **Government's Response and Next Steps**

21. In light of the responses to the consultation, we have decided to proceed with amending the Valuation Office Agency's powers of entry as proposed in the consultation paper.

22. The Government's view is that these amendments to the legislation will provide the correct balance between the rights of individuals and businesses with the need for maintaining accurate lists which underpins the local taxation systems. Paragraph 7 of Schedule 9 to the 1988 Act and Section 26 of the 1992 Act are being amended to provide for the following:

- That where consent to enter is not given, the Valuation Office Agency's Listing Officers and Valuation Officers will be required to seek the authority of the First-tier Tribunal to exercise their statutory entry power, under which the property's occupier can be fined if successfully prosecuted for obstructing a Valuation Office Agency Officer in the exercise of the power.
- That the existing fine level for council tax is reduced and is aligned with business rates to level 1 of the standard scale (currently £200).
- That the written notice period sent by the Listing Officers and Valuation Officers in advance of a visit to council taxpayers and business ratepayers following First Tier Tribunal authorisation is three working days.