

## Introduction

UNISON is Scotland's largest trade union with members across the public, private and voluntary sectors. UNISON members work in a range of settings across the public, private and third sectors including local government, delivering vital public services. UNISON therefore welcomes the opportunity to take part in the consultation on implementing the Barclay Review.

## Response

UNISON has been calling on the on the Scottish government to introduce wider reform of taxation including a new fairer property tax for domestic properties, the return of non-domestic rates to local authority control and giving a wider range of taxation powers to local authorities e.g. a tourist tax. This consultation contains instead minor reforms which tinker with the system rather than offering radical reform.

Local authorities should be able to use tax powers to support their own objectives for citizens and their local economy. The whole focus of this consultation appears to be on how to reduce costs for business rather than how to use tax powers and taxation in general to meet their own objectives and the Scottish government's purpose:

*'To focus on creating a more successful country, with opportunities for all of Scotland to flourish, through sustainable and inclusive economic growth.' Our Purpose sets out the direction and ambition for Scotland. It is a simple statement that is inclusive beyond government and public services, and gives equal prominence to economic, environmental and social progress, and focuses on reducing inequalities.'*

Empowering local authorities would enable them to focus business development into the areas that fit local ambitions and challenges. This would also help councils fulfill the Fairer Scotland Duty. Further tax powers would also provide more scope to link rates relief strategies to other policy aims such as those in the Fair Work Framework.

It is important to remember that taxation pays for the public services that both citizens and business rely on. The Barclay report helpfully put the cost of business rates into context. While non-domestic rates raise a larger amount of revenues than is typical for commercial property taxes across the OECD, the total taxes paid by UK businesses (as a % of commercial profits) are lower than averages for both the OECD and the EU. While businesses pay relatively high amounts of property tax, they pay relatively low amounts of other taxes (e.g. corporation tax). The focus of reform should not be in reducing the tax that businesses pay. Businesses benefit from high quality public services as much as citizens. There is clear evidence that the route to supporting long-term business growth is not via tax cuts but by creating appropriate infrastructure, supporting communities and by developing a well educated and highly skilled workforce.<sup>1</sup> Business must

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<sup>1</sup> Rethinking Property Tax Incentives for Business

Daphne A. Kenyon, Adam H. Langley, and Bethany P. Paquin Lincoln Institute Of Land Policy 2012

<https://www.lincolnst.edu/publications/policy-focus-reports/rethinking-property-tax-incentives-business>

contribute towards those costs. As Barclay concluded a property tax is an effective route to ensuring they do so.

UNISON believes that it is vital that local authorities can use their discretion to set non-domestic rates locally and use exemptions or higher charges to suit their own strategic plans. UNISON believes that the most efficient way to do this would be giving full power over non-domestic rates to local authorities. If the government chooses not to do this then they will need to ensure that the mechanism for redistributing NDR ensures that councils benefit from any extra charges they do raise and vice versa if they introduce discounts. This will of course be complex and is another reason why we support full control for local authorities.

UNISON welcomed the review chaired by Ken Barclay and has been generally supportive of some of the proposals the review: for example three yearly revaluations are something UNISON has long argued for. UNISON believes that the council tax on domestic properties should also be regularly revalued. Basing charges on twenty-five year-old properly values needs to come to an end.

UNISON believes that the government has thrown huge sums of money at the small business bonus scheme. This should be urgently reviewed, money that could have gone into councils, continues to be spent on the scheme with little evaluation of its merits. A review in Northern Ireland has found that this relief could be better directed.

It is perfectly reasonable to use tax reliefs to encourage particular policies and early years provision is a key element of tackling inequality so town centres and day nurseries may benefit from new relief from business rates. However, such support should come with at least some strings. Linking relief to the Scottish Living Wage now rather than waiting for the 1140 hours expansion would be a good start for the notoriously poor employment practices in many day nurseries.

The consultation does contain sensible recommendations to improve the administration of the system, through better information, transparency and speeding up appeals and repayments. Making the failure to provide information a civil rather than a criminal matter is less obviously a good thing, although wider powers to get information are. Big companies have obviously lobbied for consistency, but this should remain a local system – not another new quango.

UNISON welcomes plans to focus on tax avoidance and plug several well-known tax dodges. Focusing on anti-avoidance principles rather than rules may be a more effective route than lifting the Generally Anti Avoidance Rules from HMRC which do not appear to have been an effective tool so far.

Private schools have come out with a predictable defence of their status. It's not the purpose of charitable status to perpetuate the inequalities in our society that private schools sustain. The same is true of some exclusive sports and recreation clubs. UNISON therefore welcomes the efforts to ensure that they pay appropriate business rates.

On the other hand the current proposals will have a significant impact on leisure trusts and council budgets. Despite the claimed benefits of these organisations, the primary driver was tax-dodging. If this loophole is plugged, as we warned it might, then councils should be taking these services back under direct control. However, this was one of the

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ways that councils coped with cuts to their budgets, therefore there would need to be compensatory budget uplift from the Scottish government. In principle, we would not therefore oppose the ending of this exemption, but only if the Scottish government compensated councils for the cost. The Barclay Review is supposed to be cost neutral and this cannot be the case if it leads to additional costs for councils or cutting public leisure services. The cost to councils could be as much as £45m. The consultation states that this will be taken forward separately and UNISON looks forward to taking part in further consultation on this.

## Questions

### Barclay recommendation 1

**Question 1** – What are your views on how the growth accelerator and new unoccupied build should be treated in legislation?

The whole focus of this consultation appears to be on how to reduce costs for business rather than how to use tax powers and taxation in general to meet the Scottish government's purpose:

*'To focus on creating a more successful country, with opportunities for all of Scotland to flourish, through sustainable and inclusive economic growth.' Our Purpose sets out the direction and ambition for Scotland. It is a simple statement that is inclusive beyond government and public services, and gives equal prominence to economic, environmental and social progress, and focuses on reducing inequalities.'*

Empowering local authorities would enable them to focus business development into the areas that need the support. This would also help councils fulfill the Fairer Scotland Duty. There is also more scope to the rates relief/strategies to other policy aims such as those in the Fair Work framework.

It is important to remember that taxation pays for the public services that both citizens and business rely on. The Barclay report helpfully put the cost of business rates into context. While non-domestic rates raise a larger amount of revenues than is typical for commercial property taxes across the OECD, the total taxes paid by UK businesses (as a % of commercial profits) are lower than averages for both the OECD and the EU. While businesses pay relatively high amounts of property tax, they pay relatively low amounts of other taxes (e.g. corporation tax). The focus of reform should not be in reducing the tax that businesses pay. Businesses benefit from high quality public services as much as citizens. There is clear evidence that the route to supporting long-term business growth is not via tax cuts but by creating appropriate infrastructure, supporting communities and by developing a well educated and highly skilled workforce.<sup>2</sup> Business must contribute towards those costs. As Barclay concluded a property tax is an effective route to ensuring they do so.

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<sup>2</sup> Rethinking Property Tax Incentives for Business

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UNISON believes that NDR should be devolved to local authorities. Local authorities should be able to use their tax powers to support their objectives for their local economy. Failing that UNISON believes that it should be up to local authorities to decide where business accelerators and rates reliefs should apply. The government will need to ensure that the mechanism for redistributing the NDR ensures that councils benefit from any charges they raises and vice versa if they introduce discounts. This will of course be complex and is another reason why we support full control for local authorities.

## **Barclay recommendation 2**

Question 2 – Do you have any comments on three yearly revaluations?

UNISON is generally supportive of three yearly valuations. It is essential that any taxes/rates are based on up to date and accurate values. This highlights the serious failure of successive governments to revalue the council tax after its introduction. It is ridiculous that council tax is levied on properties subject to valuations that are over twenty-five years-old. As the Scottish government has no plans for a replacement for the council tax regular revaluation (for example every five years) would go some ways towards improving the current tax.

## **Barclay recommendation 5 b)**

*A new power to enable councils to impose an additional levy on rates in certain circumstances.*

**Question 3** – From 2020 a small number of pilot councils will have a new power to increase rates paid by out of town or predominantly online businesses.

- a) Do you agree or disagree with putting in place safeguards?
- b) Please explain your response to (a) including what the safeguards should be if you agree they are required.

UNISON welcomes giving local authorities more powers over non-domestic rates. UNISON also believes that, while piloting and evaluation are important routes to ensuring that policies are effective and work as planned, local authorities are directly elected bodies with their own mandate and should be able to make decisions on local tax without Scottish government approval. Councils should of course consult widely in their decision making process but we see no reason why non-domestic rate payers should have more rights to consultation than council tax payers.

UNISON believes that the most efficient way to do this would be giving full power over non-domestic rates to local authorities. If the government chooses not to do this then they will need to ensure that the mechanism for redistributing the NDR ensures that councils benefit from any extra charges they do raise and vice versa if they introduce discounts. This will of course be complex and is another reason why we support full control for local authorities.

## **MEASURES TO IMPROVE ADMINISTRATION**

**Question 5** - What level(s) should this civil penalty be set at?

**Question 6** - How should the penalty be set? Should it be a fixed penalty or proportionate to/ banded by rateable value?

**Question 7** - Do you have any views on who is responsible for administering the penalty and the process for appeals against the penalty notice?

UNISON believes that progressive taxation is the fairest way to both provide public services and to build a cohesive successful society. We are not convinced of the merits of a move from criminal to civil penalties. If this does go ahead these proposals will help to improve the administration of the system, through better information, transparency and speeding up appeals and repayments. In particular we welcome wider powers to get information. While big companies seem to consistently call for centralised systems, UNISON believes this should remain a local system – not another new quango.

To be effective the penalties will need to be meaningful so that they can act as a deterrent and penalise those who break the rules. Penalties therefore should be proportionate to rateable value. Penalties should also be at a rate that at (a minimum) covers the costs of enforcing and collecting the penalties.

**Question 8** - Which organisations/ individuals should be required to supply necessary information to the Assessors, where applicable?

**Question 9** - What level(s) should this penalty be set at?

**Question 10** - How should the penalty be set? Should it be a fixed penalty or proportionate to / banded by rateable value?

**Question 11** - Do you have any views on who is responsible for administering the penalty and the process for appeals against any penalty notice?

**Question 12** - Should this be a mandatory penalty or one that the Council has discretion over (please indicate your preference and add any comments)?

UNISON welcomes the introduction of this new penalty. In order to be effective the penalty needs to be high enough to act as a deterrent and cover the full costs of administering a penalty process. Tax-payers should not be paying to cover the costs of chasing non-payers. This should be proportionate to the rateable value to ensure that it is fair. UNISON believes that these powers should rest with councils and so while we believe they should, of course, use them councils should be able to determine their own policies in this area and should therefore have discretion.

## **Barclay recommendation 18**

*Councils should be able to initiate debt recovery at an earlier stage.*

**Question 13** - How should the debt recovery changes be communicated to ratepayers?

**Question 14** - What are your views on whether Councils should retain a discretion over debt recovery to allow for any extenuating circumstances?

The Scottish government should run a national campaign to inform non-domestic ratepayers of any changes that they implement. They should also provide local authorities with funding so that the authorities can also run a local information campaign regarding local implementation. UNISON believes that these powers should rest with councils and so while we believe they should, of course, use them councils should be able to determine their own policies in this area and should therefore have discretion.

## **Barclay recommendation 19**

*Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness.*

**Question 15** - How should this change be communicated to ratepayers?

**Question 16** - Do you have any points about the change to allow valuation appeals to increase?

The Scottish government should run a national campaign to inform non-domestic ratepayers of any changes that they implement. UNISON welcomes the change to the appeals process whereby the result of an appeal can increase as well as decrease. The current system leans too heavily towards encouraging appeals.

The impact of these changes alongside the move to three year valuations will mean that there will need to be an analysis of how the changes impact on the workload of valuers and an assessment of the financial resources needed to implement the changes effectively.

## **Barclay recommendation 20**

*A General Anti-Avoidance Rule (GAAR) should be created to reduce avoidance and make it harder.*

**Question 17** - When the General Anti Avoidance Rule is introduced, do you have any recommendations or principles that this should encompass?

UNISON consistently calls on our governments to improve efforts to tackle tax evasion and avoidance. It is through taxation that we pay for public services and the infrastructure we need as a country. Taxation is the fairest way to ensure that we can all have high quality services. Avoiding paying your fair share, whether as an individual or a business, reduces the money available for those services, it also increases the tax burden on those who do pay and giving businesses that avoid tax an advantage over their more scrupulous competitors.

It is also clear that it is wealthier individuals and big business that have the resources to explore, find and use tax avoidance techniques. This adds further to the inequality that already blights our society harming small businesses as well as those on lower incomes. It is those on lower incomes who are more likely to be harmed by cuts and poor quality public services and infrastructure than bigger corporations increasing the impact of inequality further.

UNISON believes that GAAR at a UK level has not been an effective tool in deterring or countering tax avoidance. There is little evidence of widespread use by HMRC and there appear to be only seven reports from the GAAR advisory panel.

It may be more effective to introduce a General Tax Avoidance Principle such as that proposed by Michel Meacher MP and John Pugh (to the 2009 Finance Bill<sup>3</sup>) :

*"1 If when determining the liability of a person to taxation, duty or similar charge due under statute in the UK it shall be established that a step or steps have been included in a transaction giving rise to that liability or to any claim for an allowance, deduction or relief, with such steps having been included for the sole or one of the main purposes of securing a reduction in that liability to taxation, duty or similar charge with no other material economic purpose for the inclusion of such a step being capable of demonstration by the taxpayer, then subject to the sole exception that the step or steps in question are specifically permitted under the term of any legislation promoted for the specific purpose of permitting such use, such step or steps shall be ignored when calculating the resulting liability to taxation, duty or similar charge.*

*2 In the interpretation of this provision a construction that would promote the purpose or object underlying the provision shall preferred to a construction that would not promote that purpose or object".*

**Barclay recommendation 21-** *To counter a known avoidance tactic, the current 42 days reset period for empty property should be increased to 6 months in any Financial year.*

**Question 18** – How do we raise awareness of this change among ratepayers?

**Question 19** – Do you have any further comments around the 6 month reset period for empty property relief?

UNISON welcomes all moves to counter avoidance tactics. The Scottish government should run a national campaign to inform non-domestic rate payers of any changes that they implement.

**Barclay recommendation 22**

*To counter a known avoidance tactic for second homes, owners or occupiers of self-catering properties must prove an intention to let for 140 days in the year and evidence of actual letting for 70 days.*

**Question 20** - Should there be any local discretion in the application of this policy?

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<sup>3</sup> Richard Murphy February 2012 Why the UK needs a general anti avoidance principle  
<http://www.taxresearch.org.uk/Documents/GAntiP.pdf>

**Question 21** - If your answer to question 18 is yes, under what circumstances should this discretion apply?

UNISON welcomes all moves to counter avoidance tactics. UNISON believes that it is vital that local authorities should have full control over non-domestic rates. While we would hope that authorities will use counter avoidance tactics such as this we believe that they should have discretion over this decision. As with other recommendations decisions like this will have to be reflected in the distribution formula used to allocate NDR monies to local authorities.

#### **Barclay recommendation 24**

*Charity relief should be reformed/restricted for a small number of recipients.*

**Question 22** - How should independent schools with exceptional circumstances such as specialist music schools be treated?

UNISON welcomes proposals to restrict reliefs. The key to assessing the status of specialists schools will be whether they offer further privilege to the already privileged or support those on low incomes to access specialist education regardless of pupils' ability to pay for it.

#### **Barclay recommendation 26**

*To encourage bringing empty property back into economic use, relief should be reformed to restrict relief for listed buildings to a maximum of 2 years and the rates liability for property that has been empty for significant periods should be increased.*

**Question 24** - What are your views on whether Councils should have discretion in the application of this measure for properties, so that local circumstances can be accounted for?

While UNISON welcomes this proposal, in line with our support for full control of NDR being returned to local authorities, there should be local discretion over the application of this policy. As with other recommendations, decisions like this will have to be reflected in the distribution formula used to allocate NDR monies to local authorities.

## **Conclusion**

UNISON is Scotland's largest trade union with members across the public, private and voluntary sectors. UNISON members work in a range of settings across public service including local government, delivering vital public services. UNISON therefore welcomes the opportunity to take part in the consultation on implementing the Barclay Review.

It is important to remember that taxation pays for public services which both citizens and business rely on. UNISON has been calling on the Scottish government to introduce wider reform of taxation including a new fairer property tax for domestic properties, the return of non-domestic rates to local authority control and giving a wider range of taxation powers to local authorities e.g. a tourist tax. This consultation contains instead minor reforms which tinker with the system rather than offering radical reform.

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