

100% Business Rates Retention: Further consultation on the design of the reformed system

May 2017



The Local Government Association (LGA) welcomes the opportunity to respond to the Government's further consultation on proposals for the reformed business rates retention system.

The LGA is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by making the case for greater devolution, helping councils tackle their challenges and assisting them to deliver better value for money services.

This response has been approved by the political leadership of the LGA.

Over the last twelve months we have worked closely with the Department for Communities and Local Government on the various elements of further business rates retention reforms and the Department has engaged extensively with the sector. This joint working, and the fact that all papers have been made publicly available, is welcome and during the passage of the Local Government Finance Bill and beyond, we intend to continue this approach.

We particularly welcomed the announcement by the Secretary of State earlier this year, in response to the previous consultation on business rates retention, that Attendance Allowance is no longer being considered as part of the reforms. It is helpful that further decisions will not be made on responsibilities to be funded through business rates retention until further work has taken place on the suitability of responsibilities to be funded through this route.

However, before any additional responsibilities can be transferred to local government to be funded through further business rates retention, it is imperative that local authorities must be able to use the additional income from business rates to address existing funding pressures.

In terms of responsibilities to be funded from business rates once additional pressures have been funded, the LGA is undertaking a major review of the way skills and employment support services are delivered nationally. The review will consider local government's role in this delivery and how this might link to funding of these services through business rates in future.

Another factor which will impact on the resources available is the move from the Retail Price Index to the Consumer Price index; this is expected to reduce income from business rates by £370 million; over a 20 year period this would amount to a cumulative £78 billion.

As we get further into the detail of the design of the new system there is now a need for the Government to publish modelling of differing scenarios, so that local authorities can properly assess the various aspects of the scheme. We also look forward to seeing the Fair Funding Review work, including consideration of needs, resources and transition, developed alongside the systems design side.

It is important that the design of the system should allow as much flexibility as possible. In particular, we do not support the current proposals to allow the Secretary of State to direct local authorities to pool or define the membership of pools. Councils will of course have regard to local economic geographies when making decisions about pooling; giving central government these pooling powers goes against the grain of the reforms.

It is clear that losses from appeals as a result of 'valuation errors' could have a significant impact on the operation of the new scheme. As such we welcome a centrally managed appeals risk system. We look forward to working with the Government to develop the details of how this will work in practice. We note that the multiplier is set at a higher level to allow for the fact that income will inevitably be lost from successful appeals. On the other hand, the cost of appeals which are backdated to before the start of the scheme and which would have been funded from the central share under 50 per cent retention should be funded separately and not from a top-slice. The interaction between the system for managing appeals risk and the safety net will also need to be considered carefully.

Further consideration also needs to be given to those events which cause a significant shock to the system, such as a legal decision on mandatory reliefs for NHS Trusts, decisions on rating methods, for example doctors' surgeries, and the knock on effect of Government policy decisions, such as the expansion of academy schools.

Responses to specific questions

Our responses to each of the questions in the consultation document are set out in detail below.

Question 1: What are your views on the proposed approach to partial resets?

In our reply to the previous consultation we said that a partial reset could provide a way forward and would be better than either a frequent full reset or an infrequent full reset alone. We would add that the latter is likely to be needed at some point to avoid a long term divergence between needs and resources. We also said that it was not possible at this stage to say what the balance between the amount retained through the reset and that used to equalise should be until further modelling work has been undertaken to look at the impact on authorities and on geographical areas. Ideally this should cover more than one reset period. We are still waiting for this detailed modelling to be carried out and note that views on how much should be retained will differ within local government. We note however the Government's intention to take the opportunity of a reset to bring funding back to baseline levels for those authorities who have experienced a decrease in business rates income. Any move to more frequent

reevaluations also needs to be considered at the same time; this needs to be designed in a way so it neither undermines the incentive effect, nor fails to take into account the needs of councils with increasing demand and little opportunity to grow.

Question 2: What are your views on how we should measure growth in business rates income over a reset period?

A final decision on this should only be taken as a result of the modelling above. We would comment as follows on the specific factors mentioned:

The baseline against which growth is to be measured

This is crucial to the exercise and should be a part of the consultation in summer 2018. It will be determined by the overall 'quantum' or control total, the final shape of the appeals provision arrangements, the number of years that will be used for the baseline and whatever is finally determined on the tier split.

Whether to measure growth in real or nominal terms

It would seem to be sensible to measure growth in real terms using the same multiplier as is used for top-ups and tariffs.

Whether to measure growth at a single point in time, or whether to measure growth as an average over several years (and if so, how many)

We can see the point of using averages to smooth out peaks and troughs in business rates income and to counteract perverse incentives. An alternative would be to have a rolling reset so more recent growth is weighted.

What proportion of growth to allow to be retained by authorities that have achieved growth over the reset period

As said above, a balance will have to be set between resetting authorities which lose business rates income back to 100 per cent of their business rates baseline at a reset, and a reasonable percentage to carry over to offer sufficient incentive. Different authorities will have different views on this.

Question 3: What are your views on the Government's plans for pooling and local growth zones under the 100% Business Rates Retention system?

We do not agree with the power in the Local Government Finance Bill for the Secretary of State to designate pools and call on the Government to drop this measure from the Bill. Any element of compulsion in the scheme will not be conducive to good relations locally. In some circumstances there may be other reasons why local authorities do not wish to be part of pools. We believe that pooling should continue to be voluntary and determined locally.

On local growth zones and incentives; we agree that parameters are necessary to ensure that there is enough business rates income left in the system for distribution and agree that those mentioned; which relate to the proportion of growth retained, the total rateable value covered, the proportion of total income, the number of years for which the zones would exist, the geographical area to be covered and the purpose for which it should be used, are appropriate. Notwithstanding these parameters, we

would hope that local growth zones themselves could come up with their own proposals, taking into account different local ways of working. Although we note that the Bill restricts local growth zones to pools, we would like to see them wider; for example when particular authorities are already working together on economic-growth related projects. We would also like to see provision for an appeals structure in the event that an LGZ proposal is not accepted.

Question 4: How can we best approach moving to a centrally managed appeals risk system?

The current appeals backlog has developed because of the delay in dealing with the large number of appeals in the current system. This has in turn increased the provisions which need to be made to cover this. In 2013 the LGA called for the Government to fund all appeal loss before April 2013. In 2019 local government potentially faces having to take on 100 per cent of provisions for appeals loss, including backdating.

The LGA is in favour of a centrally managed system to cover losses from appeals and is pleased that the Government is reforming how the business rates retention system deals with appeals. As the document acknowledges, there is still a lot of work to do on determining precisely how loss due to 'valuation error' is defined and measured, and exactly how and when these payments should be made, including how revaluation cycles fit in with this.

We note that the Government is considering funding the new system through a top-slice from business rates, which will only be distributed to authorities in cases of actual appeal loss. We have previously said that we think that this should be funded from central list income. As said in the introduction, the cost of appeals which are backdated to before the start of the 100 per cent scheme and which would have been funded from the central share under 50 per cent retention should be funded separately and not from a top-slice. Further work should also consider what would happen if the provision for appeals in the multiplier set at revaluation is insufficient.

We also welcome the involvement and comments of CIPFA and others from the accountancy profession, noting that the proposals must work from an accounting point of view.

On appeals more generally, we would support a short-term increase in resources to the VOA, specifically to deal with the backlog of appeals before the 100 per cent system is introduced. This should be subject to a performance and accountability framework.

Question 5: What should our approach be to tier splits?

We note that the Government states that it will use tier splits to manage the level of risk and reward open to councils in multi-tier areas, including the importance of providing stability and funding for adult social care, the ability of different tiers to influence growth and the services devolved to different tiers. We agree that these are key considerations and note discussions between representatives of shire districts and shire counties. We are pleased that the Government is not proposing a specific tier split at this stage. The presence of a combined authority may also be a relevant consideration.

We note the proposal for the tier split to be left for local determination and

would welcome further consideration of this, as long as it did not affect income for other areas.

Question 6: What are your views on proposals for a future safety net under the 100% Business Rates Retention system?

We are pleased the Government recognises there will still be a need for a safety net in the new system. We note that the consultation document states that the Government anticipates that the demand for safety net payments should reduce under 100 per cent retention, with the move to partial resets and the introduction of the new approach to managing appeals. On the other hand the new approach to managing appeals implies that baselines will be higher (as the appeals provision will not be distributed at the start) and it may therefore be easier to fall below the safety net baseline. We would like to see modelling which incorporates the new way of dealing with appeals.

We agree that the safety net should continue to function as a 'simple' safety net. We note that the 2017 pilots are trialling a safety net of 97% of the baseline funding level and look forward to further proposals from DCLG.

Any unused safety net funding should be automatically returned to Local Government.

Question 7: What are your views on our proposals for the central list?

We agree that it is vital that the LGA and local government be involved in the review of the Central List. We strongly agree that the Central List should only include property which is genuinely non-local. One reason for this is to provide sufficient incentive for large developments which could be controversial locally. We consider that it should consider hereditaments currently on the central list which might be split (for example Network Rail stations which could go on local lists). It is important that any moves between central and local lists should be done at the start of the system when the baseline is set, so they do not have an impact on authorities when further business rates retention is introduced. However, if further adjustments are necessary after this, there should be appropriate adjustments to top-ups and tariffs.

We also consider that the Government needs to be clear how all income from the Central List will be distributed to authorities.