Local Government Association On the Day Briefing
The Government's consultation on business rates retention
5 July 2016

Local Government Association

Briefing

The consultation sets out issues that need to be considered prior to implementing the Government's proposals on further business rate retention. It considers a range of aspects of reform to inform the upcoming Local Growth and Jobs Bill, which at the moment is expected to be tabled in early 2017. Our briefing summarises the content of the Government's consultation and the early LGA view. The full consultation is available on the website of the Department for Communities and Local Government (DCLG).

Key messages:

- This Government consultation is an important step on the road towards further retention of business rates, something which has been long called for by local government. It poses a series of open questions and it is important that the views of councils are heard and central in shaping how the new system works. This is vital to ensure it maximises the potential it offers to our local communities and businesses.

- It is important for the new system to be implemented in a way which balances rewarding councils for growing their local economies but avoids areas less able to generate business rates income suffering as a result.

- Decisions over which grants and responsibilities councils will have to pay for from any extra business rates income are also crucial. As well as consideration of the grants and services listed in this consultation, councils are keen that any new responsibility they agree to take should support their vital role in driving economic growth. Handing over responsibility for skills and transport services is the most logical fit as it would allow local areas to close skills gaps, improve public transport and boost local economies.

- The Government is considering transferring responsibility for supporting older people with care needs – including people who, under the current system, would be supported through Attendance Allowance. Councils do not want responsibility for administering the Attendance Allowance benefit for older people. This would create significant cost pressures for local government whose budgets are already under significant strain. This is because cost pressures and applications for demand-led services like Attendance Allowance can increase very quickly whereas it can take much longer for local areas to generate business rates income.

- We are pleased the Government has recognised the need to ensure existing responsibilities and any new devolved responsibilities will be funded under the new system. Government also needs to allow councils to use some of the extra business rates income to plug existing funding gaps and grant the power to increase business rates to all areas, and not just to those with directly elected mayors.

- Councils have been forced to divert at least £1.75 billion from stretched local

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services in the past three years to cover the risk of backdated appeals, of which they have to cover half the cost at present. Under localised business rates, local government could be liable for 100 per cent of the cost of successful appeals. Improvements to the appeals system are essential to avoid the need for councils to divert significant sums of money that could otherwise be invested in local services.

- The consultation and corresponding call for evidence on needs and redistribution close on **26 September**. We urge local authorities to provide contributions either through this consultation process or through representatives on relevant joint working groups.

Introduction and overview

The consultation says:

- By the end of this Parliament, local government will retain 100 per cent of taxes raised locally. In order to ensure that the reforms are fiscally neutral, councils will gain new responsibilities, and some Whitehall grants will be phased out.

- To achieve such radical reform, the Government wants councils, business and people to take the initiative and shape the design of the new system. This consultation is therefore deliberately open and seeks views and ideas across all aspects of the reforms.

- It identifies some of the issues that the Government thinks should be kept in mind in designing of the reforms. This includes how the reformed system recognises the diversity of different areas and the changing pattern of local governance arrangements. The system need not work in the same way across the country.

- It also considers how the design of the new system can provide the right level of incentive and reward to those councils (particularly those working closely with local businesses and together as Combined Authorities) that pursue policies that drive additional growth in their areas.

- It also welcomes views on how business rates income might be shared across different tiers of local government, including how the system should recognise areas which have moved to reformed models of governance. There is a balance to be struck between providing a strong incentive for growth in local areas and considering the distribution of funding between local authorities.

- The Government is clear that the reformed system should ensure that authorities are able to manage and share risk to an acceptable level, and that they are insulated from undue shocks or significant reductions in their income.

- The deadline for responses in **26 September**.

The Government's timetable is as follows:

Summer 2016	Consultation on the approach to 100 per cent business rates retention. We are inviting responses to this consultation by 26 September 2016. Those responses will help shape specific proposals across all aspects of the reforms.
Autumn 2016	We expect that Government will undertake a more technical

	consultation on specific workings of the reformed system.
Early 2017	As announced in the Queen's Speech, the Government will introduce legislation in this Parliamentary session to provide the framework for these reforms. We expect the legislation to be introduced later in the Parliamentary session.
April 2017	Piloting of the approach to 100 per cent business rates retention to begin.
By end of the Parliament	Implementation of 100 per cent business rates retention across local government.

Devolution of responsibilities

The consultation says:

Criteria for devolution

- There are a number of criteria for guiding principles for assessing possible candidates for devolution of services, outlined under the following four headings:

  - Devolution of a responsibility should build on the strengths of local government
  - Devolution of a responsibility should support the drive for economic growth
  - Devolution of a responsibility should support improved outcomes for service users or local people
  - Devolution of responsibilities should be made with consideration for the medium-term financial impact on local government

LGA view:

- These criteria have been discussed with the joint working steering group and by the LGA's Task and Finish group. As stated in the consultation, it should not be assumed that each candidate or responsibility proposed for devolution must meet all criteria.

The range of responsibilities

- A number of functions have been identified, although the list is not exhaustive and each option will not necessarily feature in the final package. It remains open for respondents to come forward with their ideas for devolution of other services and budgets.

- The following grants and responsibilities have been identified as a possible fit against the criteria for being funded through business rate:

  - Revenue Support Grant
  - Rural Services Delivery Grant
  - Greater London Authority (GLA) Transport Grant
  - Public Health Grant
  - Improved Better Care Fund
  - Independent Living Fund
  - Early Years

- Youth Justice
- Local Council Tax Support Administration Subsidy and Housing Benefit Pensioner Administration Subsidy
- Support for older people with care needs – including people who, under the current system, would be supported through Attendance Allowance

LGA view:

- Decisions over which grants and responsibilities councils will have to pay for from any extra business rates income are also crucial. As well as consideration of the grants and services listed in this consultation, councils are keen that any new responsibility they agree to take should support their vital role in driving economic growth. Handing over responsibility for skills and transport services is the most logical fit as it would allow local areas to close skills gaps, improve public transport and boost local economies.

- Some councils may feel there are other areas that should be considered in the list of potential devolved responsibilities. We would therefore encourage local authorities to consider this list carefully. If further services and budgets are identified, these should be brought forward through the engagement process during the summer and shared through the ongoing joint working between the sector and DCLG. They should also be included in any formal response to the consultation.

- The conditions attached to any transfer will be crucial to ensure that the transfer truly represents devolution of responsibility to local authorities. The table suggests that the Improved Better Care Fund would be transferred on a ring fenced basis. Some councils may feel that this does not represent true devolution.

- Councils do not want responsibility for administering the Attendance Allowance benefit for older people. This would create significant cost pressures for councils whose budgets are already under significant strain. This is because cost pressures and applications for demand-led services like Attendance Allowance can increase quickly whereas it can take much longer for local areas to generate business rates income.

- The table does not identify estimated funding levels to be transferred for these services and grants in 2019/20. No matter which new services councils agree to operate, the amount of extra business rates income kept by councils must meet their cost, both now and in the future. Government also needs to allow councils to use some of the extra business rates income to meet existing funding gaps and give the power to increase business rates to all areas and not just to those with directly elected mayors.

Devolution Deals

- Existing devolution deals include the devolution of a range of functions and associated budgets and include the following functions and grant funding:

    - Investment funds for devolution deals
    - Adult Education Budgets
    - Transport Capital Grants
    - Local Growth fund

- The Government considers:

    - That the move to self-sufficiency under business rates retention could take account of the different governance arrangements across local government.
    - The new pattern of Combined Authorities, Mayors, as well as the Greater London Authority provides an opportunity for specific devolution that may not be appropriate in other areas.

- This approach would establish different funding arrangements for Mayoral Combined Authorities and the Greater London Authority than in non-devolution areas, reflecting their different governance arrangements, alongside universal devolution to every local authority

LGA view:

- The approach being outlined for devolution deals would mean that the range of services being devolved would be different in different parts of the country and for different councils. It would also mean that the services listed would only be available to councils as part of a devolution deal, including Adult Education and Transport Capital Grants.

Assessing New Burdens costs post-2020

- The New Burdens doctrine should continue to apply after the introduction of the 100 per cent retained business rates system, with funding to be paid through section 31 grants.

LGA view:

- We support this approach.

Quantum: the value of additional business rates income

- The Government estimates that the value of additional business rates revenue available to local government from locally collected rates in 2019/20 will be around £12.5 billion, bearing in mind that forecasts can change. In addition, the current estimate of the value of the central list income is 2019/20 will be £1.5 billion.

- Under 100 per cent business rates retention all authorities will be funded for their existing responsibilities and for any new responsibilities devolved. Changes or refinements to the quantum will not undermine that.

- If the value of new responsibilities exceeds the increased retained rates receipts, the Government would continue to make grant payments to fund the difference.

- Pilots for local business rates retention will not reduce the quantum of resource available for other parts of local government.

LGA view:

- Fiscal neutrality means that the value of services transferred must not exceed the funding available for them.

The business rates system

The consultation says:

Growth and redistribution

- The Government expect to strike the balance between growth and redistribution by regular resets, which will allow the Government to reconsider relative need and to recalculate distributable amounts. The Government believe it is right to set fixed periods to give authorities certainty of income. There are different options given for resets:

    - Full reset of the system, including all achieved growth, frequently.
    - Full reset of the system, including all achieved growth, infrequently.
    - A partial reset of the system on a frequent basis, allowing local government to carry some growth in business rates over a reset.

- A key question the Government considers is how much growth should be retained (and how much loss should be carried) by individual authorities at a partial reset.

Revaluations

- The revaluation is the point in the system at which economic changes in property values are reflected in rateable values. Between revaluations, rateable values only change through appeals and physical changes to the property or location. However, the Government is required at the point of revaluation to reset the multiplier to ensure no more is raised in business rates.

- Currently, the Government adjusts each authority's tariff, or top-up, following a revaluation, to ensure their retained income is the same after revaluation as immediately before. The Government propose the same system of revenue neutral revaluations will continue to apply for the 100 per cent business rates retention scheme.

Combined Authorities with directly elected Mayors, two-tier areas and fire authorities

- The Government believes that Combined Authorities with a directly elected Mayor should have the opportunity for an enhanced role in achieving growth under the 100 per cent business rates retention system.

- The Government is aware that some Mayors have expressed a wish to be given greater responsibility for the distribution of resources within the Combined Authority area.

- In non-Mayoral areas there would continue to be tier splits for business rates income. Setting tier splits for the future 100 per cent rates retention system will take some further consideration. Further work will need to consider the impact of different options on a local authority's exposure to risk and incentive to grow their business rates base.

Fire funding

- The Government could remove fire and rescue authorities from the retention system and fund them through a separate grant administered by the Home Office. If this went ahead the Government would seek to replicate published allocations for 2019/20 through a separate fire grant for any authorities who take up the offer of a firm four year funding allocation.

Enterprise Zones

- The Government intend that Enterprise Zones (EZs) and other designated areas should continue to operate as now and will be guaranteed 100 per cent of business rates growth for 25 years. It also means that income from EZs will be disregarded for the purpose of calculating 'cost-neutrality' or for working our tariffs and top-ups.

Ratings lists

- Currently properties appear on either the central or local rating lists. Under the current system, local authorities therefore only benefit from any growth in income from ratepayers in the local lists.

- The Government has received suggestions that the highest risk hereditaments (power stations, oil refineries, national airports) should be removed from the local lists and moved into the central list.

- There have been suggestions that some of the riskier properties could be managed at a broader 'area level' - sharing the risk that these properties bring, but also receiving an element of reward from any growth.

Helping to manage appeal risk and insulating against shocks

- Any option to manage risk associated with successful appeals would have to be funded from within the overall business rates system.

- There are options for managing risk:

    - For local authorities to continue managing the risk as they do now, with increased support to improve local ability to set aside the right amount of provisions;
    - Pooling provisions through a combined authority;
    - Managing some of the risk at a national level. Due to data limitations, and the timing of compensation and accounting rules, no approach is likely to be perfect, nor would it remove the need for authorities to make provision for losses.

- The new system will continue to need to help insulate authorities from financial shocks. There could be an area level safety net in areas with area ratings lists, with authorities within it deciding what proportion of the baseline would be protected. Others might prefer something much closer to the current national safety net. This should be funded from within the 100 per cent rates retention system.

LGA view:

- The LGA welcomes views on the right balance of risk and reward within the system, particularly on the frequency of resets and the idea of partial resets.

- Appeals are the prime cause of uncertainty with 300,000 unsolved appeals from the 2010 list, requiring councils to tie up money in provisions. We look forward to further discussion on ways of managing risk in the new system, alongside appeals reform.

- The LGA considers that non-combined authority areas should be able to take advantage of abilities to pool and to form area lists, subject to agreement in these areas.

Local tax flexibilities

The consultation says:

Ability to reduce the multiplier

- Authorities will have a new power to reduce the business rates multiplier. Authorities should use this power to provide an across the board reduction in the multiplier.

- In a single tier area the relevant authority would take the decision about whether to reduce the multiplier and meet the costs. As such, other components of the system for that local authority, such as tariffs, top-ups and revaluation would continue to be based on the national multiplier. The Government is seeking views on how the power should operate in two-tier areas.

- An authority could be allowed to increase a previously reduced multiplier back up to the national multiplier after a reduction in one step or there could be a maximum permitted increase in any year.

- The appropriate scale for reducing the multiplier could be determined by Mayoral Combined Authorities, alongside decisions on an infrastructure levy.

- The Government does not envisage introducing safeguards to mitigate against any potential impacts on neighbouring areas as all authorities would have similar powers to reduce the multiplier.

Infrastructure levy

- The Government is seeking views on key policy decisions on the design and the power of Combined Authority Mayors to levy a 2p in the pound supplement on business rate bills to fund new infrastructure projects (the ‘infrastructure levy’):

    - Whether there should be any minimum rateable value thresholds for application of the levy;
    - How the new powers interact with existing Business Rate Supplement (BRS) powers, with BRS powers continuing to be available outside Combined Authority Mayoral Areas;

  - How approval would be gained from the Local Enterprise Partnership (LEP) business members;
  - How many years a levy should last for;
  - The definition of infrastructure projects;
  - Whether multiple levies should be permitted – up to a limit of 2p in the pound.

- Further suggestions include:
  - Extending the power beyond Combined Authority Mayors (the government is clear that the new power will be for Combined Authority Mayors only);
  - Extending the business consultation requirements more widely;
  - Including a discount power for Business Improvement Districts;
  - Amending the definition of infrastructure.

LGA view:

- The LGA welcomes the ability to reduce the multiplier. We think that authorities should be able to target this within their areas; for example, to specific areas or industries or above or below a particular rateable value threshold.

- The LGA is opposed to capping increases in the multiplier after a reduction.

- The LGA considers that powers to raise an infrastructure levy should apply outside Combined Authority / Mayoral areas;

- The LGA considers that authorities should be given more flexibility on mandatory rate relief, particularly for charities and empty properties. This would help target incentives and tackle avoidance.

Needs and redistribution

The consultation says:

- As part of the 2016/17 Local Government Finance Settlement, the Secretary of State announced a Fair Funding Review of councils' relative needs and resources.

- The Government is clear that there will still need to be some system of redistribution between local authorities to balance revenue with relative needs.

- The needs formulae have not been thoroughly reviewed for over a decade, which for many councils is far too long. There is good reason to believe that the demographic pressures affecting particular areas, such as the growth in the elderly population, have affected different areas in different ways, as has the cost of providing services. The Fair Funding Review will identify relative needs for each local authority.

- The Government expects to continue to need a redistribution system of top-ups and tariffs, based on the current one. The top-ups and tariffs that each local authority could expect to see will be calculated before the new system is introduced, based on the Fair Funding Review and an assessment of their expected business rates income. Top-up and tariff payments will be fixed for the period between resets to give local authorities certainty about their baseline funding level.

- For the services currently supported by the local government finance system, the outcomes of the Fair Funding Review will establish the funding baselines for the introduction of 100 per cent business rates retention. The Fair Funding Review will consider the distribution of funding for new responsibilities on a case by case basis once these responsibilities are confirmed; they are likely to have bespoke distributions.

- Alongside the consultation, the Government has published a call for evidence for the Fair Funding review. It is an open discussion document which asks questions about the following issues:

  - What is the balance between simple and complex funding formulae?
  - How should relative need be measured and assessed?
  - What should the approach be for doing needs assessments for different services?
  - How should the growth in local taxes since 2013/14 be taken into account?
  - How should the transition from the current to the new distribution of funding work?
  - At what geographical level should a needs assessment be done?
  - How, and what, local government behaviours should be incentivised through the assessment of councils' relative needs?

LGA view:

- We welcome the publication of this open discussion paper. It is important that the Fair Funding review is open, transparent and takes into account the concerns and proposals from all parts of the local government sector. We encourage local authorities to provide evidence to the review through this call for contributions or through representatives on the technical working group.

Accountability and transparency

The consultation says:

Balance of local and central accountability

- The current process for determining allocations of funds to authorities through a Local Government Finance Report and resolution by Parliament encourages accountability for funding decisions to remain with central government.

- The requirement for an annual process also has the potential to undermine the funding certainty offered through multi-year settlements, and the announcement of final decisions relatively late in the year can make it difficult for local authorities to manage the process of local consultation in setting their budgets.

- The Government is interested in exploring how to change the process for allocating funding to increase funding certainty for local government, providing councils with the flexibility to set budgets in good time and strengthening local accountability.

- Where responsibilities are devolved from central to local government, it is important to consider how the balance of accountability between central and local government to Parliament for delivery of those services may change - for example, the relative roles and responsibilities of central government

Accounting Officers and local government.

Accounting for income from local taxes

- Local authorities are currently required by statute to account for Council Tax income and Business Rates income in the 'Collection Fund Account'.

- In a reformed system, the central government share of local business rates income will no longer exist so will not need to be disclosed in the Collection Fund Account. However, there will still be a need for billing and precepting authorities to continue to collect and record income

- Therefore, both the Government and the Accountability and Accounting Technical Working Group consider that there would be no benefit in removing the requirement to prepare a Collection Fund Account. Some disclosures in the Collection Fund Account are required by statute and may need to be revised depending on detailed design choices made.

Balanced Budget requirement

- Local authorities are also required by statute to produce a balanced budget; this is a key element of the local authority financial control framework.

- Both the Government and the Accountability and Accounting Technical Working Group agree that there is no benefit in removing the requirement to prepare a balanced budget. However, it is possible that if the way that councils are required to calculate their balanced budget was adjusted to better align with the way they run they actually manage their finances, both efficiency and transparency gains may be achieved.

Other Reporting to Central Government

- Local authorities are currently required to prepare and submit NNDR 1 and NNDR 3 forms to report business rates income to central government. Following business rates reforms some elements of the current NNDR1 and NNDR3 forms will no longer be relevant.

- The Government is clear that some form of reporting will still be required, both to allow local authorities to provide information to feed into the safety net and levy calculations and to allow central government to provide information to Parliament on the quantum of business rates collected. However, it may be possible to revise data collection activities to make the data more transparent.

LGA view:

- We welcome the Government's approach to working with local government on the accounting issues associated with business rate retention. An Accountability and Accounting Technical Working Group has been established with representatives from local government, to advise central government on the accounting arrangements, as proposals for business rates retention develop.

- It is important that the arrangements promote transparency and accountability, rather than adding complexity to the local government finance system. Careful consideration must be given to the implications of accounting changes, in order to ensure there are no knock-on impacts on the way in which the overall system operates.