## REPORT TO THE MEETING OF THE EXECUTIVE 19 OCTOBER 2011

## PORTFOLIO: PORTFOLIO HOLDER FOR FINANCE AND RESOURCES

## REPORT FROM HEAD OF FINANCE

## SUBJECT: LOCALISING THE RETENTION OF BUSINESS RATES GROWTH – GOVERNMENT CONSULTATION PAPER

### 1 DECISION BEING RECOMMENDED

1.1 To agree the attached response to the Government's consultation on its review of local government financing.

### 2 REASON/S FOR RECOMMENDATION

2.1 The Government has announced its aim to localise business rates to incentivise economic growth and give councils greater control over cash to help them plan for the long term.

2.2 The consultation sets out the Government's proposed core components for a business rates retention system. The key elements of the main proposals are:-

- An end to the annual settlement, the last being for 2012-13
- A business rates target for every authority from 2013-14
- Authorities collecting more in rates than they presently receive in Formula Grant will be required to pay a tariff to Government
- Authorities collecting less in rates than they presently receive in Formula Grant will continue to be subsidised through a top up.
- Authorities exceeding the business rates target in any year will keep some of the excess, the rest being levied to provide a safety net and for other purposes
- Authorities failing to meet the business rates target will see a reduction in overall resources, which might be partly offset by funding from the levy
- Voluntary pooling arrangements to allow neighbouring authorities to smooth out volatility
- Continuation of the "central list" as exempt from these proposals; the "central list" holds those properties where DCLG directly collect business rates.
- A complete "reset" every few years, possibly after ten years

- Business rates from new renewable energy projects will be kept by the local authority and those revenues will be discounted in the calculation of any levy. The proposal is that the greater proportion of this funding should go to the local planning authority.
- Police and Fire authority funding determined essentially as now, albeit with a revised formula from 2013-14.

2.3 In addition, it sets out how the proposed tax increment financing will operate within this rates retention system as a way of funding infrastructure investment to unlock economic growth. The consultation also outlines how the proposals interact with wider Government initiatives to promote growth, including the existing New Homes Bonus, and considers how they will work alongside the existing architecture of the business rates system, which Government are not proposing to change, for example rate reliefs and the national business rate multiplier.

## 3 SALIENT INFORMATION

3.1 Although a detailed consultation was published in July, it was followed up by 8 technical papers which provided further detail on the consultation. Copies have been placed in the Members' Library and are available on the website www.communities.gov.uk. The 8 technical papers covered the following topics:-

(1) Establishing the baseline - How, technically, Government will establish the baselines and the implications of fixing them for a number of years between resets.

(2) Measuring business rates - The issues associated with measuring business rates and options for doing so.

(3) Dealing with non-billing authorities - The basis for funding police and fire authorities in 2013-14 and 2014-15 and, more widely, that for apportioning rates between authorities.

(4) Business rates administration - The consequences for business rates administration of the scheme outlined in the consultation paper.

(5) Tariff, top up and levy options - Options for the design of tariffs, top ups, the levy and the use of levy income.

(6) Volatility - Causes and the options for dealing with it.

(7) Revaluation and transition - The practicalities of assessing business rate income following a revaluation. It will also consider the implications of the transition scheme - and in particular, how this affects business rate administration and the payments made between authorities.

(8) Renewable energy - Definitions of renewable energy, the treatment of rates from renewable sources for the purposes of tariffs, top ups and levies, and their distribution between the tiers.

3.2 The attached Appendix sets out the questions raised in the consultation, with proposed responses.

3.3 In addition to the Council's individual response, there will be a joint response on behalf of the Essex authorities.

**4 ALTERNATIVE OPTIONS CONSIDERED**

4.1 To not respond.

**5 RISK IMPLICATIONS**

5.1 The proposals in this consultation will significantly shift the risks associated with business rates collection to local authorities. Currently, if there is a significant reduction in business rates, either due to national economic conditions or to the closure of a major local employee, the Government meets that risk and no alteration is made to the amount of NNDR paid out to local authorities through the Formula Grant. Although the proposals include options for dealing with volatility, it will be necessary for the Council to consider its own contingency arrangements including the possible setting aside of a provision for reduction in NNDR. The Council will need to consider what additional information and skills will be required in order to properly forecast income levels and the impact of economic changes.

5.2 The consultation contains various options affecting a number of factors so financial modelling has been completed on a number of scenarios in order to identify some potential implications on the Council's Medium Term Financial Strategy.

**6 RESOURCE IMPLICATIONS**

6.1 In 2011/12, the Council will collect approximately £14m in business rates which will be paid into the national pool. The Council will receive £2.79m.

6.2 The baseline for funding from 2013/14 will be based on the 2012/13 Formula Grant allocation, with adjustments for the 2013/14 control total (2010 Spending Review total) and possibly other changes to the formula and underlying data. It will then be adjusted down to the 2014/15 control total, as this is the lowest level of funding over the life of the Spending Review. The government then proposes that the difference between the baseline calculated for 2013/14 and the total for 2014/14 will be distributed as a separate grant. Not all growth in NNDR receipts will be redistributed to local authorities as there will be a set aside to fund the New Homes Bonus. The amount retained will be dependent upon government forecasts for eligible housing. Any surplus will be redistributed by Government as a separate grant later in the year.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

The decision should be taken as a matter of urgency and not subject to call-in because the deadline to respond to the consultation is 24 October 2011.

SMT Lead Officer Signature: ______________________________

**Head of Finance**

**Background Papers:**

Consultation available at: www.communities.gov.uk

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# Local Government Resource Review – response to consultation on proposals for Business Rates retention

## Introductory comments

Before addressing the individual consultation questions, it is important that although this scheme is called Proposals for Business Rates Retention, it is noted that it is not a scheme for the re-localisation or retention of the Business Rates. What is being re-localised is a part of the Business Rates growth, but even there it is not total localisation and the pay-off is the transfer of significant risks to local authorities.

Authorities are not allowed to determine how much any business is charged or which businesses are charged or when.

The calculation of the baseline with set asides for New Homes Bonus could mean that local authorities end up with lower levels of income than currently forecast under the Spending Review totals.

Many business decisions that affect local Business Rates have nothing to do with local authorities and more accurately reflects the effects of Government policy, world economic conditions or changing tastes. This scheme gives authorities credit for any rate gains and penalties for any losses, however they are incurred. If a local authority loses a major employer, then it will suffer the effects for perhaps up to 10 years, depending on the timing of any resets, at the same time that deprivation levels will have suddenly increased and the demand for services will have increased.

Chapter 4 talks about the interactions with existing policies and commitments, but the consultation ignores the concurrent consultation on localising support for Council Tax which is, in effect, a cut in Council Tax Benefit to be managed by local authorities. Another consultation that also links in with this, and is not identified, is the consultation around funding new academies and the claw-back of grant. This means another top slice taken off the formula grant in addition to that proposed for the New Homes Bonus.

Floor damping in the formula grant is a major issue that does not seem to have been properly addressed in this consultation. The figures would suggest that many high resource authorities are set to gain hugely by having their damping gains, i.e. the support they have received through the damping mechanism, locked in for up to 10 years, again depending on the interval between resets.

The rates retention system not only transfers risk, in relation to volatility, bad debt provision will now also have to be met by local authorities rather than being deducted as under the current system.

There are a number of issues mentioned in the consultation which are not subject to specific questions:

i) Paragraph 5.4 refers to the fact that the Localism Bill will introduce powers to allow local authorities to reduce the Business Rates bill of any or all local businesses as they see fit, according to local circumstances. The cost of these decisions would be borne locally. We understand that there could be potential state aid implications if we use discounts in an attempt to attract new business under this scheme. Legislation will need to be very clear, so that it does not create situations where local authorities end up acting unlawfully.

ii) The consultation does not discuss any potential conflict of interest between authorities' planning decisions and the potential gains from development. This has already been raised as an issue arising from the New Homes Bonus and it will be interesting to hear Government's views on how they see this being addressed and protections put in place.

iii) The consultation does not discuss transition arrangements. Unless the system is constructed carefully, an authority might easily gain by delaying planning permission for a new development to ensure its opening was delayed from 31 March 2013 to 1 April 2013. It is evident that local authorities will have to change their financial planning in order to accommodate the risks now associated with Business Rates. The risks will come from both the Business Rate income and also from the way that the Business Rate levy is handled. It may be necessary to maintain higher balances to cope with these uncertainties. As Government are transferring the risks to local authorities, it would be unfair of them then to criticise local authorities for ensuring prudent levels of reserves to manage unknown risks.

iv) Another issue with the transition arrangements is that if a local large business closes just prior to the scheme's adoption, but once the baseline has been set, the authority will receive the benefit of income over and above that it might have expected.

Finally, the proposed implementation date of 2013/14 coincides with the implementation of the Government's proposals to localise Council Tax support. Implementing either of these proposals has potentially significant risks for all councils and doing both at the same increases these risks even further.

**MAIN CONSULTATION DOCUMENT - RESPONSES**

**Q1: What do you think that the Government should consider in setting the baseline?**

We agree that there should be a fair starting point for all local authorities. We recognise that it would not be fair for authorities such as ourselves, who collect nearly four times as much in business rates as we receive from the pool, to simply be allowed to retain that amount. However, using the 2012/13 formula grant as the basis for constructing the baseline, means that the inherent inequalities in the existing formula grant scheme are merely carried over to the new scheme. There is no real relationship between need and resourcing in the formula grant, because after relative needs and relative resources is calculated, a floors damping is applied which wipes out any attempt to accurately reflect need in the formula grant.

The baseline should be based on the 2012/13 formula grant before floors damping is applied. Local authorities will still have certainty around their funding levels and those who will be seeing large cuts, because they have been receiving the benefit of the floor damping mechanism which has given them additional grant over what is required for their relative needs, will have a period of time in which to prepare for the reduction in grant.

The Government will need to consider the implications of the 2011 Census. The population figures from the Census are expected in autumn 2012, which theoretically means they could feed into any calculation of 2013-14 baseline.

**Q2: Do you agree with the proposal to use 2012-13 formula grant as the basis for constructing the baseline? If so, which of the two options at paragraphs 3.13 and 3.14 do you prefer and why?**

We agree with the proposal to use the 2012-13 formula grant, with the caveat that this should be done before the floor damping is applied.

The first option is the simplest and favours those authorities who would expect to lose had the 2013/14 settlement be recalculated because they receive large amounts of support through floor damping. It would also benefit authorities whose need has reduced compared to other authorities since the 2012/13 settlement.

The second option just reinforces the inherent unfairness in the Formula grant 4-block model because of the floor damping.

The consultation does not consider any options that make some attempt to address the damping in the current system. We would support a baseline that is based on either ignoring damping in which case the Government would have to fund the shortfall for authorities which currently receive additional support from damping or the damping should be phased out over a period of say 5 to 10 years.

However, if DCLG are not able to consider other more complicated options, then our preferred option from those proposed would be Option 2.

**Q3: Do you agree with this proposed component of tariff and top up amounts as a way of re-balancing the system in year one?**

Yes

**Q4: Which option for setting the fixed tariff and top up amounts do you prefer and why?**

We would support option 1 which is to uprate the tariff or top up amounts by the same RPI as the business multiplier is uprated, rather than the second option to retain the year one cash amount.

**Q5: Do you agree that the incentive effect would work as described?**

We do not agree that the incentive effect would work as described. The stated aim of introducing business rates retention is to provide an incentive for local authorities to grow their business rates value. It provides no incentive for small footprint/high employee type businesses, for example, organisations with a high level of home working. It is likely to incentivise large retail parks rather than small or medium sized enterprises.

There needs to be protection against short term falls in rates income because of, for example, large scale town centre redevelopments which involve the demolition and removal of buildings prior to replacement.

In particular, we take issue with the sentence "*this change has the potential to ensure that authorities engage more actively with businesses and seek to maximise their business rate base and ensure that businesses in their area all pay the correct rates*". Like the majority of authorities, this authority already ensures that businesses pay the correct rates and we engage actively with businesses.

As local authorities take on the risk of managing volatility, this will require the setting aside of provisions for future falls in income. Any uncertainty over levels of income including the timing of any resets, will make authorities more cautious. The complexity and late announcement of awards for the Local Area Business Growth Incentive meant that the grant was not budgeted for by most authorities and it is generally agreed did not act as an incentive for growth.

The consultation and technical papers do not include any information on the Government's current forecasts for business rates growth and the concern is that local authorities will have to exceed these forecasts to see financial benefits. Until this information is shared with local authorities, it is difficult to assess the incentive effect.

Using the levy pot for anything other than to provide a safety net and setting it too high will disincentivise local authorities.

**Q6: Do you agree with our proposal for a levy on disproportionate benefit, and why?**

Yes, as the long as the proceeds are ring fenced to provide a safety net to local authorities that experience a significant fall in income.

The two paragraphs in 3.24 and 3.25 appear directly to contradict each other. Paragraph 3.24 says there will be no cap on the amount of business rates, growth an authority can benefit from, whereas paragraph 3.25 proposes a levy to, in effect, put a cap on business rates growth.

In addition, the fact that the amount of business rates to be retained by local authorities is already limited by the spending review totals, implies that there is a cap on the value of growth that will be retained by a local authority. There is already a gearing effect, in relation to Council Tax, and there are no proposals to address this.

**Q7: Which option for calculating the levy do you prefer and why?**

Do not agree with the second option as the use of a banding approach, based on a pence in the pound would create a cliff edge, which would create disparity between authorities that sit just above or below a band boundary.

We would support a proportional levy.

**Q8: What preference do you have for the size of the levy?**

Proportional levy based on 1:1 ratio. However, this should be based on an analysis of possible impacts on the incentive for growth and should be reviewed annually.

**Q9: Do you agree with this approach to deliver the Renewable Entergy commitment?**

Although supportive of the Government's attempt to incentivise renewable energy projects, the proposal that the greater proportion of business rates growth in relation to Renewable Energy project should go to the level of the local planning authority theoretically means that there will be an undue impact on the total amount of business rates money available for other authorities. This is based on the implication that the business rates pot is limited by the spending review total.

There will need to be protections in place to ensure that the decision to grant planning permission for renewable energy projects is kept separate from any financial considerations.

**Q10: Do you agree that the levy pot should fund a safety net to protect local authorities:**

- **i) whose funding falls by more than a fixed percentage compared with the previous year (protection from large year to year changes); or**
- **ii) whose funding falls by more than a fixed percentage below their baseline position (the rates income floor)?**

Currently the risk of volatility in Business Rates income is met by the Government. The consultation does not include an option that the risk stays with Government.

We agree that there should be a safety net to protect local authorities, in particular to manage the volatility of the Business Rates system due to revaluations, appeals, changes to valuations, physical changes to properties, the sudden change in local economic circumstances, including the closure or relocation of a major business. The consultation paper does not discuss the safety net in the case of a national economic downturn, such as the current recession where Business Rates income across the country could potentially fall below the baseline.

The safety net should be based on comparison to the baseline position and not year on year changes. This means that local authorities will need to manage the annual fluctuations by the use of reserves/contingencies or pooling arrangements.

The safety net should be available during the year in order to assist local authorities who face significant falls in income from, say, the loss of a major employer.

**Q11: What should be the balance between offering strong protections and strongly incentivising growth?**

The current indications are that the total amount of business rates that will be retained by local authorities will be within the limits of the spending review total. It has been identified that from 2015/16 the forecast Business Rates income exceeds the amount included in the spending review for funding formula grant. If there is this cap on the amount of Business Rates to be retained by local authorities, this will weaken the incentive effect, regardless of any level of levy.

**Q12: Which of the options for using any additional levy proceeds, above those required to fund the safety net are you attracted to and why?**

The most important issue is the need to protect authorities who suffer a fall in Business Rates income.

The consultation suggests that the levy could perhaps be used for other uses in addition to providing a safety net, for example funding regeneration schemes, redistributing to all authorities or holding back for future low growth years. These additional uses of the levy potentially give ministers significant discretion over how funding is distributed. This means the levy might not be focussed on need and could be targeted at other ministerial objectives. Other uses introduces subjectivity into the arrangements, would require transparent criteria and a bidding process which adds complexity.

We do not agree with the proposed other uses for the levy. The levy should be restricted to providing the safety net and any surplus should be redistributed to all local authorities in proportion to their baseline, in a similar way to the 2013/14 adjustment grant.

**Q13: Are there any other ways you think we should consider using the levy proceeds?**

No. The levy should be restricted to providing the safety net and any surplus should be redistributed to all local authorities in proportion to their baseline, in a similar way to the 2013/14 adjustment grant.

**Q14: Do you agree with the proposal to readjust the tariff and top up of each authority at each revaluation to maintain the incentive to promote physical growth and manage volatility in budgets?**

We agree with the proposal that the tariff and top up of each authority should be adjusted at the revaluation that takes place on all business properties, to give them a new rateable value.

It is difficult to evaluate what the effect of a change from top up to tariff authority, arising from the revaluation, might be and this is something that Government will need to consider.

**Q15: Do you agree with this overall approach to managing transitional relief?**

Yes, we agree that the impact of transitional relief should be taken out of the rate retention scheme as local authorities have no control.

However, we disagree with the proposal in Technical Paper 7, that the deficits created by transitional relief should be charged to the levy pot. The consultation outlines the reasons why a transitional relief scheme normally runs in deficit and these reasons are outside the control of local authorities. The deficit should be covered by central government.

**Q16: Do you agree that the system should include the capacity to reset tariff and top up levels for changing levels of service need over time?**

Firstly, it is important to note that if the baseline is based on current grant and includes floor damping, then the level of retained Business Rates will already not reflect need.

It is also worth noting that local authorities provide a wide range of services which are not necessarily linked to economic growth. In addition, where the economy is based on knowledge/service industry working from small property bases, the link between economic growth and business rates income is reduced.

The system therefore does need to be re-set in order to reflect any changes in need, either through, for example, population growth or increased deprivation.

**Q17: Should the timings of reset be fixed or subject to government decision?**

The Government should set a fixed period for resets over a longer period. This is transparent and provides certainty and also offers a stronger incentive effect and encourages long term investment and growth. We do not agree that having a fixed period, which could be announced by Government at any time, would stop authorities investing for growth. However, it could encourage lobbying by local government for resets or government undertaking resets that reflect changes in political priorities.

The Government should also have the flexibility to carry out partial resets in the interim if changes in service demands mean that some authorities become unable to meet needs. However, the triggers for a partial reset need to be transparent and agreed with local authority groups.

**Q18: If fixed, what timescale do you think is appropriate?**

10 years in order to allow developments to complete and start generating income. The timing of the reset and the timing of the business rates revaluation would need to be considered.

**Q19: What are the advantages and disadvantages of both partial and full resets? Which do you prefer?**

There is very little detailed information in the consultation papers on how the two options would work, so our responses are limited. In addition, responses could be different depending on whether the resets are done at fixed intervals or when Government determines.

A partial reset is against the baseline position only. As this would mean redistributing the Business Rates income that was in the system on day one, it would leave income attributable to growth to sit with the authority that achieved it. This provides a great incentive to generate growth but could mean that changes in service need are not accurately reflected.

A full reset of the system, taking into account all of the Business Rates income in the system at the time of the reset, potentially means that growth generated in one authority would be lost in the reset. As the consultation does not specify how the reset would be carried out and how the up to date position on needs and resources would be calculated, we have to assume that whatever is put in place will be similar to the four block method and as opaque. Therefore, with the limited information available and to provide some stability and certainty over income streams, we would support a partial reset.

**Q20: Do you agree that we should retain flexibility on whether a reset involves a new basis for assessing need?**

The current system for assessing need is subjective and does not have the confident of local authorities that it accurately reflects local authorities' needs.

The Government cannot be restricted to the existing system so should retain flexibility on how need and resources are determined in any reset. However, we would expect consultation to be carried out and for the methodology to be more transparent than the current four block method. It also should not include floor damping. We are pleased to note the confirmation that the new burdens principle will still apply and that, where new proposals are introduced by a department, this will be funded through perhaps a Section 31 grant. However, we note the comment that the funding will then be mainstreamed into the Business Rates retention system. We would expect this then to be an increase to the overall Business Rates total, compared to the spending review total at any future resets.

**Q21: Do you agree that pooling should be subject to the three criteria listed at paragraph 3.50 and why?**

We agree that pooling should be subject to the criteria as stated, i.e. that they are voluntary, subject to assurances around governance and their workability. If the pool is dissolved, the members of the pool would return to their individual tariff, top up and levy amounts.

The consultation does not actually ask for a view on whether pooling will deliver the benefits identified.

Paragraph 3.47 of the consultation states "*depending on the mix of authorities in the pool, and their individual tariffs, top ups and levies, pooling could also increase the level of rates retained across the pool where it leads to a lower aggregate levy. There is a theoretical possibility that the levy may be higher, and the rates retained therefore lower if the pool consisted of only tariff authorities all experiencing positive growth*". This raises a concern that, with a finite level of resources, in the business rates system, there will be less rates income to share amongst authorities who sit outside pools. There may be perfectly reasonable explanations why an authority is not able to join a pool.

**Q22: What assurances on workability and governance should be required?**

As long as the criteria listed at paragraph 3.50 are met, each pool should have the freedom to set up the governance arrangements to suit their requirements.

**Q23: How should pooling in two tier areas be managed? Should districts be permitted to form pools outside their county area subject to the consent of the county or should there be a fourth criterion stating that there should always be alignment?**

If a district wanted to pool with authorities outside the county area or neighbouring unitary authorities, this should be subject to agreement with the county council. In order to avoid political prejudices, there should be specific reasons why a county council can prevent a pooling arrangement. These would include if the pool's proposals went against the county council's strategy for economic growth and there would have to be agreement over the sharing of rates receipts arising from growth. It should be noted that this may prevent a number of useful pooling arrangements being established. For example the Thames Gateway South Essex comprises two unitaries and three district/borough councils. These authorities already work well together in driving economic development so that pooling would seem to be a natural next step. It would be unfortunate if the county veto prevented the districts from becoming more closely involved with the unitaries to drive investment in the Thames Gateway.

**Q24: Should there be further incentives for groups of authorities forming pools and if so, what would form the most effective incentive?**

If districts are not allowed to get involved in pooling arrangements which provide the maximum growth potential because of a county veto, it seems unfair if they then get penalised for being outside a pooling arrangements. Any additional financial incentives to pooling should not reduce the amount of growth retained by local authorities outside of pooling arrangements.

To incentivise pooling arrangements, there should be additional funding to develop the pooling arrangements which will include legal and financial advice and the costs of managing the pool should be deducted from any levy.

The reduction in the levy for the pool needs to be sufficiently strong to incentivise pooling.

**Q25: Do you agree with these approaches to non-billing authorities?**

We agree that county councils should receive a share of Business Rates growth in the area. Although the ideal would be for their share to reflect their contribution in driving Business Rates growth, this would introduce added complexity and we, therefore, suggest that a simple percentage basis used, similar to that used for the LABGI or New Homes Bonus.

We will be pleased to see the funding for police and fire sectors taken out of the localisation of Business Rates and that they will receive their guaranteed funding at the levels agreed in the 2010 spending review. All Government funding for the police and fire should be taken out of the business rates system at the next Spending Review.

**Q26: Do you agree this overall approach to funding the New Homes Bonus within the rates retention system?**

Paragraph 3.13 of the consultation refers to the fact that the spending control envelope for local government in 2013/14 and 2014/15 will be based on the spending review totals. Formula grant is intended to provide funding for local authorities' running costs to meet assessed needs, taking into account relative resources. The New Homes Bonus is a fixed term funding stream limited to six years, which means that it cannot be used for long-term commitments such as revenue running costs. It is not clear whether the spending review totals include the anticipated growth in overall Business Rates receipts and forecast growth in new homes. We do not agree that the funding for the New Homes Bonus should come from the rates retention system.

**Q27: What do you think the mechanism for refunding surplus funding to local government should be?**

As house building projections have historically been over-optimistic, and very rarely met, we have some concerns about the accuracy of any amount held back in the first year.

Local authorities will need early notification of how much their base line might be adjusted in respect of New Homes Bonus. If Government are aiming for local authority funding to be relatively stable in the transition from formula grant to the new rates retention system, having large amounts retained for the New Homes Bonus would defeat the object.

The funding should be returned on the basis of the baseline funding level.

**Q28: Do you agree that the current system of business rates reliefs should be maintained?**

Although not a specific question, we welcome the proposals to allow billing authorities to publish certain statutory information online, instead of sending hard copies, to operate multi-year billing for Business Rates and to clarify the legislation on Business Rates refunds so that outstanding liabilities from previous years can be offset before offering refunds.

We agree that there should be a national standard of reliefs funded by Government and agree that the central Government funding element of discretionary relief should continue.

However, those reliefs which are determined locally should be taken out of the business rates retention system. The current proposal passes the risk that the actual level of reliefs exceeds forecasts. Mandatory reliefs can be volatile and local authorities have no control over them, so they should be managed in the same way as transitional reliefs. This would also ensure that local authorities continue to support government's targeting of financial assistance by encouraging take up.

**Q29: Which approach to Tax Increment Financing do you prefer and why?**

The key issue that will determine whether Tax Increment Financing can be utilised is certainty over future revenue.

Local authorities can already use prudential borrowing if it can be demonstrated that the borrowing is prudent, affordable and sustainable.

To make TIFs an option for local authorities, the business rates receipts will need to be ring fenced and not subject to levy or resets. The options proposed only allow local authorities to retain the business rates growth generated by the TIF, while central government will benefit from the growth in additional VAT, corporation tax, National insurance and income tax.

A local authority could not undertake a TIF under option 1 because of the uncertainties over future income streams as the business growth would be subject to the levy and future resets.

Therefore, we would prefer Option 2, which guarantees revenues without the risk of loss to levy or reset, where the growth is attributable to the TIF investment. We accept that this would require Government control or approval in order to limit the number of schemes coming forward and maintain resources available for the rebalancing at any reset and to maintain a levy pot

**Q30: Which approach do you consider will enable local authorities and developers to take maximum advantage of Tax Increment Financing?**

As Option 2 offers the greater guarantees that additional growth will be secure, we believe that this option is the one that will enable local authorities to take maximum advantage of TIF. However, if the result of this option is that the levy pot is reduced, this will increase the uncertainty for local authorities that future volatility will be met from the levy and this may inhibit local authorities' appetite for getting involved in long term financing arrangements.

**Q31: Would the risks to revenues from the levy and reset in option 1 limit the appetite for authorities to securitise growth revenues?**

Because of the uncertainty over the levy and whether that would be a fixed part of the rates retention scheme and the considerable uncertainty introduced by the reset, particularly if it is based on a full assessment of needs and resources with any current growth being redistributed from authorities that delivered the growth, we cannot see that any authority would take the risk if option 1 were the only option available.

**Q32: Do you agree that pooling could mitigate this risk?**

We do not agree that pooling would mitigate the risks associated with option 1 as the pooling authorities would still have the same uncertainties over future income streams.. Our view is that we do not think there will be a great take-up of TIFs because of the uncertainty that the investment will deliver the revenue growth. However, bearing in mind the impact on the levy pot of allowing authorities who undertake TIFs to effectively opt out of the levy scheme, there does need to be some central control to ensure that a sufficient level of pot is retained to manage volatility.

In order to avoid a first come/first approved arrangement, bi-annual bidding rounds would seem the most practical way of managing the approval process.

**Q33: Do you agree that central government would need to limit the numbers of projects in option 2? How best might this work in practice?**

Yes. Projects would have to be limited because they will take rate receipts out of the system.

**<u>TECHNICAL PAPERS – RESPONSES</u>**

<u>Technical Paper 1 – Establishing the Baseline</u>

**TP1 Q1: Do you agree with the proposed approach to calculating the amount of business to be set aside to fund other grants to local government? If not, what alternative do you suggest.**

If the grants are for functions being transferred to local authorities, they should be funded by new monies in line with New Burdents.

**TP1 Q2: Do you agree with the proposed approach for making an adjustment to fund New Homes Bonus payments and for returning any surplus to local authorities in proportion to their baseline funding levels?**

New Homes Bonus should be funded by new money, a principle recognised by government when they allocated £1bn in the 2010 Spending Review.

Any surplus funding should be returned to local authorities in time to be taken in to account in budget setting.

**TP1 Q3: Do you agree with the proposed approach for making an adjustment in the event of any functions being transferred to or from local authorities?**

We would have concerns about the CLG's ability to make accurate estimates of the costs, as they failed to identify accurately how much Formula Grant was attributable to concessionary fares. This raises the risk that too much funding is removed.

Again any future surplus needs to be redistributed promptly. Concerns about the level of withheld funding may lead to perverse budget decisions with impacts on front line services.

**TP1 Q4: Do you agree with the proposed approach for making an adjustment to fund police authorities, and potentially also single purpose fire and rescue authorities?**

Yes.

**TP1 Q5: Do you agree with the proposed approach for ensuring that no authority loses out in 2013-14 as a result of managing the business rates retention system within the 2014-15 expenditure control total?**

Yes as long as the confirmation of the 2013/14 adjustment grant to be paid by grant is made promptly so it can be included in budget considerations.

**TP1 Q6: Do you agree that we should use 2012-13 formula grant after floor damping as the basis for establishing authorities' *baseline funding* levels? If not, why?**

No. Floor damping is an unfair mechanism that wipes out any attempt to match needs and resources against funding. The excessive levels of support that some authorities receive will become a permanent feature of the business rates system.

**TP1 Q7: Do you agree that we should use the 2012-13 allocations as the base position for floor damping in calculating the 2013-14 formula grant equivalent; and use the 2013-14 formula grant equivalent as the base position for floor damping in calculating individual authority's *baseline funding* levels?**

Although recognising Government's desire to maintain budget stability, it has to be acknowledged that the floor damping mechanism is an unfair arrangement that distorts funding and making this a permanent feature of the new system would be very disappointing.

On the assumption that there is no consultation question about the merits or otherwise of floor damping, we would agree with the years suggested.

**TP1 Q8: If not, which years should be used as the base position for floor damping in each of these calculations, and why?**

Not applicable.

**TP1 Q9: If option 1 is implemented, do you agree that we should reduce the formula grant for each tier of service according to its Spending Review profile?**

Yes

**TP1 Q10: If so, do you agree with the proposed methodology for splitting formula grant between the service tiers for those authorities that have responsibility for more than one tier of service, as described in annex B?**

No view.

**TP1 Q11: If option 2 is implemented, do you think we should update none, some or all of the data sets used in the formula grant calculations? If you think some should be updated, which ones, and why?**

It seems pointless and a waste of time to go through a recalculation for the formula grant which is then wiped out by the floors damping mechanism. If the Government is serious about stability, then it should just use the 2012/13 as a baseline adjusted for the 2013/14 spending total.

If Government decide to go for option 2, then all the data sets used in the Formula grant calculations for 2011/12 should be updated and the most recent population figures used, ie mid 2011.

**TP1 Q12: If option 2 is implemented, do you think we should review the formulae for none, some or all of the grants rolled in using tailored distributions? If you think the formulae should be reviewed for some of these grants, which ones and why?**

See answer to Q11. As whatever is produced by any recalculation or review of grants will get cancelled out in the Government's stated aim to maintain stability, there seems little point in carrying out this additional work.

**TP1 Q13: If option two is implemented, do you think we should review the relative needs formula for concessionary travel?**

A lot of work went into the consultation carried out in 2010 on the transfer of concessionary fares. The consensus amongst shire districts was frustration that the final result ended up being using actual spend as the amount to be transferred, rather than making any attempt to calculate the amounts included historically in the Formula Grant.

We would not be confident that any attempt to review the funding for concessionary fares would result in anything more accurate and any changes would get cancelled out by the Government's stated aim to maintain budgetary stability.

**TP1 Q14: Do you think we should review any of the other relative needs formulae? If so, which ones and why?**

No

**TP1 Q15: If option two is implemented, do you think we should alter the balance between service demands and resources; and if so, how?**

See answer to Q11. Again see little point in doing this as any changes would get cancelled out by the Government's stated aim to maintain budgetary stability

**TP1 Q16: Do you agree with the proposed approach for establishing guaranteed levels of funding for police authorities, and potentially also single purpose fire and rescue authorities, in 2013-14 and 2014-15?**

Yes

**TP1 Q17: Do you agree with the proposed approach for funding new burdens within the business rates retention scheme? If not, why?**

Yes, as long when the separate funding is eventually rolled into the Revenue Support Grant or the business rates system, that there is transparency over the additional funding – ie it is clear that the spending total has been increased.

**TP1 Q18: Do you agree with the proposed approach for dealing with boundary changes and mergers? If not, what alternative would you propose, and why?**

Yes

**TP1 Q19: Do you agree with the proposals on the future of Revenue Support Grant?**

No. Revenue Support Grant should continue as a mandatory grant which can be set as zero.

<u>Technical Paper 2 – Measuring Business Rates</u>

**TP2 Q1: In the absence of billing authority estimates for 2013-14 and 2014-15, do you agree with the Government's proposals for setting the *forecast national business rates*?**

Using estimates to set the forecast for business rates is very risky, particularly as one of the factors is to reflect anticipated changes in the retail price index, a notoriously difficult index to predict. The estimate for 2014/15 will be made in 2012 and it is going to be very difficult, if not impossible to get an accurate estimate two years in advance.

However, we do not see there being a viable alternative method.

Authorities will need some protection from current undervaluations by the Valuation Office that may be subject to current or future appeal.

Authorities will need to become more involved in the valuation of property, so it is essential that billing authorities at least be made "interested parties" to all valuation matters, with ability to make proposals, and be represented as a matter of course, in any appeals. At the very least, authorities will need to be notified immediately of any appeals that could have significant implications for NDR receipts.

**TP2 Q2: Do you agree with the proposed basis on which proportionate shares would be calculated?**

Yes.

**TP2 Q3: Which of the options – "spot", or "average" – do you believe would be the fairest means of determining each billing authority's business rate yield, upon which proportionate shares would be based?**

We would prefer "average" as "spot" could be distorted by particularly high or low points. We agree that only 2010/11 and 2011/12 should be used because of the impact of the recent revaluation and economic situation.

**TP2 Q4: Do you agree with the *allowable deductions* the Government proposes to make to each billing authority's business rates yield, to reflect differences in the local costs of items such as reliefs, in establishing *proportionate shares*?**

We agree with all the proposals except for Losses in Collection. In the same way that the hardship relief cannot be easily forecast on the basis of past spend, but will still be an allowable deduction, there should be an allowable deduction to reflect bad debts.

<u>Technical Paper 3 – Non-billing authorities</u>

**TP3 Q1: Of the two options outlined for determining a county council's share of a *billing authority business rates baseline (pre-tier split)*, which do you prefer?**

Fixed national shares.

**TP3 Q2: Do you agree that police authorities should receive fixed funding allocations in 2013-14 and 2014-15 through an *adjustment* to the *forecast national business rates*?**

Our view is that police authorities should be funded outside the business rates system and directly from the Home Office. However, we accept that CLG will not be able to accomplish that in this Spending Review Period but look forward to changes from 2015/16 onwards.

**TP3 Q3: Do you agree that the services provided by county fire and rescue authorities should be funded through a percentage share of each district council's *billing authority business rates baselines (pre-tier split),* subject to any *tariff* or *top up* required to bring them to their *baseline funding* level?**

Yes.

**TP3 Q4: Do you think that single purpose fire and rescue authorities should be funded:**

**a. through a percentage share of each district council's *billing authority business rates baselines (pre-tier split),* subject to any *tariff* or *top up* required to bring them to their *baseline funding* level; or**
**b. through fixed funding allocations for 2013-14 and 2014-15, through an *adjustment* to the *forecast national business rates*?**

We would support option b, to be consistent with the funding for police authorities.

<u>Technical Paper 4 – Business Rates Administration</u>

**TP4 Q1: Do you agree with the proposed approach for administering billing authorities' payments to central government?**

Yes

**TP4 Q2: Do you agree with the proposed approach for administering billing authorities' payments to non-billing authorities?**

No – it would be more efficient if the payments were made in line with the precept payments which are made monthly. There will also need to be a mechanism for notifying the Government of any in-year changes that require a safety net payment.

**TP4. Q3. Do you agree with the proposals for year end reconciliation?**

The NNDR3 should include the reconciliations of amounts due between billing and non-billing authorities and there should be a statutory deadline for completing the payments, in line with the auditing of the NNDR3.

**TP4 Q4: Do you agree with there should be a process for amending payments to non-billing authorities to reflect in-year changes, similar to the current NNDR2 returns?**

Yes.

**TP4 Q5: If there is a process for amending payment schedules, do you think changes should be possible at fixed points throughout the year? How frequently should changes be possible?**

Yes, at a mid year review but with a mechanism to allow significant changes to trigger amendments at other times of the year.

**TP4 Q6: Alternatively, do you think changes should only be possible if triggered by significant changes in business rates forecasts? What do you think should constitute a significant change?**

There should be a mid year review to ensure that all authorities are checking their payments.  In addition, billing authorities should be able to change payments at the following trigger levels:  1% before 30 September, 2% after 1 October.

**TP4 Q7: Do you agree with the proposed approach for administering payments to and from non-billing authorities?**

Yes.

**TP4 Q8: Do you agree with the proposed approach for establishing liability for the levy and eligibility for support from the safety net on the basis of an authority's pre-levy business rates income?**

Yes, as long as there is a notification mechanism for billing authorities to claim from central government and that in-year safety payments can be triggered.

<u>Technical Paper 5 – Tariff, top up and levy options</u>

**TP5 Q1: Should tariffs and top ups be index-linked, or should they be fixed in cash terms?**

Index-linked but with protection for tariff authorities who would be at a disadvantage.

**TP5 Q2: Do you agree that a pool's tariff, or top up, should be the aggregate of the tariffs and top ups of its members?**

Yes

**TP5 Q3: Do you agree that the levy should apply to change in *pre-levy income* measured against the authority's *baseline funding level*?**

Yes

**TP5 Q4: The main consultation document seeks views on which option for calculating the levy you prefer (flat rate, banded or proportional) and why. What are your views about the levy rate that should be applied if a flat rate levy is adopted?**

Proportional.  Banded introduces the risk of cliff edges with authorities who are very similar, but on different sides of the band, seeing different levys and flat rate does not address the gearing issue.

**TP5 Q5: If a banded levy is adopted, should the bands be set on the basis of an authority's gearing, or on some other basis; how many bands should there be and what levy rates that should be applied to each band?**

Do not agree with banded approach.

**TP5 Q6: Under a proportional scheme, what is your view of the levy ratio that should be applied?**

1:1

**TP5 Q7: Do you agree that pools of authority should be set a lower levy rate, or more favourable levy ratio than would have been the case if worked out on the aggregate of the pool members levy?**
Yes

**TP5 Q8: Do you agree that safety net payments should be triggered by changes in an authority's *retained income*?**

Yes

**TP5 Q9: The main consultation document seeks views on whether there should be a *safety net* for annual changes in pre-levy income. If so, what percentage change in annual income do you think that authorities could reasonably be expected to manage before the safety net kicked-in?**

The risks of volatility in business rates income are being transferred from Government to local authorities, not only from these proposals, but also the change to Council Tax benefit. This means that authorities will have little room for managing falls in income without impacting on front line services.

However, in order to limit the size of the levy, we would accept that local authorities will have to manage annual fluctuations in income levels.

**TP5 Q10: The main consultation document also seeks views on whether there should be a *safety net* against absolute falls in income below an authority's *baseline funding levels*.**
**If so, at what percentage below baseline should the safety net kick-in?**

5%

**TP5 Q11: Do you think that for the purposes of the baseline safety net, the baseline should be annually uprated by RPI, or not?**

Yes – baseline should be uprated

**TP5 Q12: Do you think that the safety nets should provide an absolute guarantee of support, or should financial assistance be scaled back if there is insufficient funding in the levy pot?**

Yes – enough risk is being transferred to local authorities without removing the certainty that the safety net will be available for set levels of income reduction.

**TP5 Q13: Should safety net support be paid in year, or after a year-end?**

In year.

**TP5 Q14: Do you agree that pools should be treated as single bodies?**

Yes – it would be up to the pool members to have in place governance arrangements that cover the support to be given to individual members.

Technical Paper 6: Volatility

**TP6 Q1: Do you agree that some financial assistance should be provided to authorities for the effects of volatility?**

A very strong yes. The volatility in business rates income is a significant risk which is being transferred from central to local government

**TP6 Q2: Of the options set out in the paper, which would you prefer? Do you agree with the Government's analysis that a safety net, instead of an events - based, or application-based approach offers the best way of managing volatility?**

The safety net linked to baseline funding is the preferred option.

Technical Paper 7 – Revaluation and Transition

**TP7 Q1: Do you agree that *tariffs* and *top ups* should be adjusted at a Revaluation to ensure that authorities' *retained income* is, so far as possible, unaffected by the impact of the revaluation?**

Yes

**TP7 Q2: Do you agree that, having made an adjustment to *tariffs* and *top ups*, there should be no further adjustments to reflect subsequent appeals against the rating list?**

Yes as any significant reductions in income from appeals should be addressed through the safety net mechanism.

**TP7 Q3: Do you agree that transitional relief should be taken outside the main business rates retention scheme?**

Yes.

**TP7 Q4: Do you agree with the Government's proposal for a system of *transitional adjustments*?**

Yes.

**TP7 Q5: Do you agree that any deficit on *transitional adjustments* should be charged to the levy pot?**

The proposal is that transitional relief is taken out of the main business rates retention scheme and therefore it should not be a drain on the levy pot.

<u>Technical Paper 8 – Renewable Energy</u>

**TP8 Q1: Do you agree that the generation of power from the renewable energy technologies listed above should qualify as renewable energy projects for the purposes of the business rates retention scheme?**

Yes.

**TP8 Q2: Do you agree that establishing a baseline of business rate income from existing renewable energy projects against which growth can be measured is the most effective mechanism for capturing growth. If not, what alternative approach would you recommend and why?**

Agree with suggested approach.

**TP9 Q3: Do you agree with the proposal to define "renewable energy projects" using, as a basis, the definition in previous business rates statutory instruments?**

Yes.

**TP8 Q4: Do you agree with the proposal for identifying qualifying business rates income from new renewable energy technologies installed on existing properties?**

Yes.

**TP8 Q5: Do you agree with the proposal that the business rates income from Energy from Waste plants that qualify as being from a renewable energy project should be determined by the Valuation Office Agency apportioning the rateable value attributable to renewable energy generation? If not, what alternative would you propose, and why?**

Yes as long as the VOA has the capacity to carry out the apportionment.

**TP8 Q6: Do you agree with the proposal that the billing authority should be responsible for determining which properties qualify as a renewable energy project?**

Yes, in liaison with the VOA.

However, we do not agree that assessing whether a property satisfies the renewable energy criteria is in any way the same as assessing whether a property is eligible for rate relief.

**TP8 Q7: Do you agree that the revenues from renewable energy projects should be retained, in two tier areas, by the local planning authority, or do you consider that the lower tier authority should receive 80 per cent of the business rates revenue and the upper tier authority 20 per cent?**

The revenues should be retained by the local planning authority. The amount of business rates revenue likely to be generated from renewal energy projects is insignificant for county councils but could act as a significant incentive to the planning authority. If the decision is made to split the revenues, then it should be consistent with the New Homes Bonus split of 80% to the lower tier.