

DRAFT LOCAL GOVERNMENT BILL: CONSULTATION ON DRAFT LEGISLATION

1 PURPOSE

- 1.1 This report brings to Members' attention the recently published draft Local Government Bill for information and comment.

2 INTRODUCTION

- 2.1 Central government has recently published a draft Local Government Bill, which if approved, will represent the third piece of major local government legislation in 4 years. The new draft bill follows on from the Local Government White Paper – Strong Local Leadership, Quality Public Service – which was published in December 2001. The draft bill sets out a range of legislative proposals relating to local government finance, which were initially consulted upon in the Green Paper: Modernising Local Government Finance in September 2000 and then followed up in the December 2001 White Paper.

3 DETAILED CONSIDERATIONS

- 3.1 The key measures set out in the draft bill cover:
- A new, prudential capital finance system
 - New duties on local authorities in relation to financial management
 - Introduction of formula grant, and the merging of Rate Support Grant and non-domestic rates
 - Establishment of business improvement districts
 - Changes to non domestic rate, including rate relief for small businesses
 - Introduction of a statutory revaluation cycle for the council tax, and various changes to the operation of the council tax
 - Changes to housing finance

- New powers to charge for discretionary services and to trade
- New powers for the Secretary of State to remove controls on authorities depending on their performance classification
- Proposals on local polls

Capital Finance

- 3.2 The draft sets out a new framework for local authority capital finance. The key feature of the new system is that local authorities will be free to raise finance for capital expenditure where they can afford to service the resulting debt. The existing system of capital controls in Part IV of the Local Government and Housing Act 1989 will be repealed, together with the many complex regulations supporting it.
- 3.3 The bill widens existing powers to borrow to cover borrowing for treasury management. It establishes that the main borrowing control will be the duty not to breach the prudential limits or any national limit. At the heart of the new system is a new freedom for local authorities to borrow to finance capital expenditure where they can afford it, without Government approval. Although there are provisions for a reserve power to set limits on borrowing and credit, Government commentary on the bill state that “it is envisaged that these would be used only in exceptional circumstances”.
- 3.4 The draft bill proposes that the new finance system apply to credit arrangements, and sets out the definition and use of capital receipts. The Secretary of State is given powers to regulate the use of capital receipts, though the intention is that capital receipts will, as now, be used normally for new capital spending.
- 3.5 The draft bill also clarifies that councils have the power to invest, not only for purposes relevant to their functions but also for the prudential management of the financial affairs. It sets out a framework for identifying and accounting codes that constitute “proper practices”, so that as far as possible standard local authority accounting practices and concepts are used.

Financial Management

- 3.6 Financial Management covers the following areas:
- power for the Secretary of State to determine a **minimum reserve level** for local authorities by regulation.

- a requirement on chief finance officers to report on the **adequacy of reserves** and **robustness of budget estimates** as part of authorities annual budget setting process. Regulations are likely to specify that they have regard to a CIPFA code issued for this purpose;
- local authorities to be give a **statutory duty to monitor their budget** and take action in the case of overspends and shortfalls of income;
- the easing of provisions preventing local authorities from entering into agreements following a **section 114 report** which a Chief Finance Officer must produce if the local authority is **overspending**. Members must then meet within a certain period to take measures to deal with this overspending.

Formula Grant

3.7 The proposals on formula grant will mean that:

- authorities to receive a single grant, to be called '**formula grant**', instead of separate Revenue Support Grant (RSG) and National Non-Domestic Rate (NNDR) amounts;
- the Secretary of State will set down in the Local Government Finance Report annually the basis on which Formula Grant will be distributed to local authorities (this is currently the system of Standard Spending Assessments; a new system is expected to be introduced in 2003/2004). The Local Government Finance Report will be approved annually by Parliament, as at present;
- the amount of non-domestic rates to be distributed to authorities (know as the 'distributable amount') will still be identified at a national level, even though at authority level it will be consolidated with RSG into a single Formula Grant payment.

Business Improvement Districts

3.8 The bill sets out proposals for Business Improvement Districts (BIDS). BIDS will mean that local councils and businesses can work together to put in place local projects to improve their area. The Districts will be funded by a levy raised through an addition to the business rate, which local businesses will agree.

Non-Domestic Rates

3.9 The bill contains various provisions which include:

- small business rate relief which will benefit businesses with rateable values under £8,000;
- transitional relief will be a permanent, self-financing, feature of the rating system;
- the Government will have a power to change the rules to make in year increases to its contribution towards the costs of hardship rate relief given by certain authorities; and
- there will be a power to adjust the multiplier for losses on appeal where it is shown that an under or over estimate has been made.

3.10 In addition, there is provision for the rating of meters whether they belong to the network operator or a separate metering company. Business rate revaluations will be at five yearly intervals but on an advanced timetable.

Council Tax

3.11 The proposals on council tax cover various changes to the system, including:

- the introduction of a statutory 10-year cycle for revaluing domestic properties for the council tax, with new valuations being used for the council tax from April 2007 in England, and April 2005 in Wales. Thereafter, new valuations will have to be undertaken at least every 10 years;
- power to the Secretary of State to vary the number of council tax bands from the current eight;
- as any revaluation is likely to affect the council tax bills individual households must pay, the draft bill proposes that the Secretary of State phases in changes to the council tax bills following a revaluation;
- a set of minor changes to the rules on enforcing council tax collection;
- changes to the basis of funding for combined fire authorities from levying to major precepting authorities; and
- the repeal of the statutory basis of the council tax benefit subsidy limitation scheme.

Housing Finance

- 3.12 The proposals on housing finance introduce a new power to remove rent rebates (housing benefit for council tenants) from the housing revenue account (HRA). This will make the housing revenue account a pure landlord account. The proposal fulfils a longstanding commitment from Government to do this.

Powers to Charge and Trade

- 3.13 The bill gives authorities the power to charge for discretionary services, including those provided under section 2 of the Local Government Act 2000 to promote the well being of their areas. The bill will set out what a council may charge, and this amount will be limited to the recovery of costs. The bill makes provision for the new charging and trading powers to be exercise within the Corporate Performance Assessment framework.

Performance Categories

- 3.14 The bill lists a number of existing powers that will allow the Secretary of State to remove regulatory controls on authorities or to grant additional powers to them. The bill makes it clear that the Secretary of State will be able to treat authorities differently according to the performance category in which they are placed by the Audit Commission following comprehensive performance assessment.
- 3.15 This power may be used, in particular, to treat authorities differently in relation to powers to trade and charge, best value reviews and performance plans and indicators, restrictions on the power to promote well-being and requirements to produce plans and strategies.

Local Polls

- 3.16 The bill confirms councils' power to conduct an advisory poll (or referendum)) on matters relating to the services for which the council is responsible or the finance it commits to those services.

4 OFFICER COMMENT

- 4.1 In the main, the proposals outlined in the Bill are to be welcomed. For example, the capital finance proposals introduce greater freedoms and flexibilities than currently local authorities enjoy. Similarly, the proposals for a regular re-evaluation for council tax purposes would be of benefit.

- 4.2 However, there are concerns over the seeming heavy handiness associated with some of the financial management proposals e.g. power to be given to the Secretary of State to specify minimum level of reserves, and also the content of some of the formula grant proposals. In the latter case, the proposals to merge the separate Revenue Support Grant (RSG) and National Non-Domestic Rate (NNDR) amounts is seen as particularly unhelpful. It will not aid transparency and will add to confusion in the context of local councils discussions with the business community, rather than simplify understanding around this issue. It is also likely to result in a number of District Councils losing out on grant funding. This is an issue which has also been picked up by the Town and Country Finance Issues Group (TACFIG), of which this Council is a member.
- 4.3 Whilst the proposals in relation to performance classification are welcome in that they promise a removal of regulatory controls on authorities and further additional powers, these freedoms and flexibilities are very much linked to the emerging framework in relation to Comprehensive Performance Assessment. The December White Paper promised a more general move towards greater freedoms and flexibilities with less red tape and a reduction in the volume of strategies required. Therefore, it is disappointing that greater moves towards this do not appear to be progressing at the same pace as other Government initiatives and are certainly not reflected in the draft Bill.

5 RECOMMENDATION

It is proposed that the Committee **Resolves**,

- (1) Subject to any further Member observations, to agree to the officer comments contained in the report as the basis of this Council's response to the proposals contained in the draft Bill.
- (2) Subject to (1) above, to copy these comments to the Local Government Association and both local Members of Parliament

Paul Warren

Chief Executive

Background Papers

Draft Local Government Bill

TACFIG Paper – Written Evidence submitted to the Transport, Local Government and the Regions Committee's inquiry into the draft Local Government Bill

For further information please contact Paul Warren on:-

Tel:- 01702 318199
E-Mail:- paul.warren@rochford.gov.uk