

Agenda Item No 7(c)

DERBYSHIRE COUNTY COUNCIL

CABINET

20 September 2016

Report of the Director of Finance

**100% RETENTION OF BUSINESS RATES AND THE FAIR FUNDING
REVIEW**

(STRATEGIC POLICY, ECONOMIC DEVELOPMENT AND BUDGET)

1 Purpose of the Report

To provide Cabinet with details of the Government's proposals for local government to retain 100% business rates and its review of the needs assessment formula that will underpin the revised rates retention system.

2 Information and Analysis

In the Spending Review 2015, the Government announced that local authorities will be allowed to retain 100% of their business rates income by the end of the current parliament. On 5 July 2016, the Government issued two consultation documents, *Self-sufficient local government: 100% Business Rates Retention* and *Fair Funding Review: Call for evidence on Needs and Redistribution*. The consultations run for 12 weeks with a closing date of 26 September 2016.

Current System

The current rates retention regime was introduced in 2013-14. Before this, a nationalised business rates system operated whereby local authorities acted as collection agents for central government; business rates were collected locally, pooled nationally and then redistributed to local authorities through Revenue Support Grant (RS) and other grants. Since April 2013, local authorities have retained 50% of their collected business rates income. The 50% that is not retained is passed back to local government and redistributed in the form of Revenue Support Grant and other grants.

Within local government, different rates retention amounts are set for different functions. A unitary council with fire functions will retain 50% of rates. In a two-tier area, a district council will retain 40% of rates, a county council will only retain 9%, unless it still has fire functions, in which case it will retain 10%.

Importantly, there is still rates equalisation in the system, otherwise the authorities with the largest rate bases would have far too much income for

their needs, and most of the rest of local government would have too little. To adjust for these differences between rates collected and needs, the Government still sets a needs target and a business rates target for each authority.

- Where the business rates target is greater than the needs target, then the authority pays over a tariff into the national pool; and
- Where the needs target is greater than the business rates target, then the authority receives a top-up from the national pool.

This measure of need has not been recalculated since 2013-14 and many feel that a fundamental review of the needs assessment is required particularly due to the increasing demographic pressures on Adult Social Care services.

Across the whole country, top-ups and tariffs balance each other out; the system of transfers between authorities balances out the differences between needs and income potential. Top-ups and tariffs – and the underlying needs and rates targets – are fixed until 2020 and only uprated each year by the increase in the national business rates multiplier (usually the Retail Price Index from the previous September).

There is protection – a safety net – for authorities whose business rate income falls significantly in any one year. The threshold for the safety net is set at 92.5% of the authority's baseline funding level.

Government believe that the 100% Business Rates Retention Scheme (BRRS) will look very similar to the current model. There will still be redistribution between authorities and there will continue to be some kind of protection built in to the system.

100% Business Rates Retention

The main proposals from the consultation document are summarised below.

Devolution of Responsibilities - A key principle in the move to 100% retention is that it must be 'fiscally neutral'. As the amount retained by local government increases, there will have to be a transfer of responsibilities and funding to local government. The additional business rates is referred to as the 'quantum'.

Devolution Deals - There are a number of connections between devolution deals and the proposal for 100% retained business rates. Grant funding for devolution deals includes:

- 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 into account 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 includes, but is not limited to, the transfer of existing/future grant commitments to payment through retained rates, thus establishing different funding arrangements alongside universal devolution to every local authority.

Assessing New Burdens costs post-2020 - The Government's starting point is that the New Burdens Doctrine (which is in place to keep the pressure on local taxpayers to a minimum) should continue to apply after the introduction of the 100% retained business rates system, with funding to be paid through Section 31 grants.

The business rates system: Rewarding growth and sharing risk - The Government wants to ensure that the reformed system provides stronger incentives to boost growth. It also points out that it must decide on what the share between tiers of government should be, recognising the new models and arrangements that exist. Further, it is necessary to look at how risk is shared across the system and to make sure that local authorities are adequately protected from rates volatility. The Government also wants the system to be simple to operate and to understand.

Growth and redistribution - Understanding that there must be a balance between strengthening the incentive for growth and considering the distribution of funding between local authorities, the Government proposes resetting the system on a fixed-term basis. Resets must be frequent enough for authorities to deliver services where change in need grows rapidly and infrequent enough that the growth incentive isn't reduced/removed. The options for the frequency of resets are:

- Full reset, including achieved growth, frequently (e.g. every five years)
- Full reset, including achieved growth, infrequently (e.g. every 20 years) or never
- Partial reset, frequently.

Under a partial reset a proportion of growth could be included as part of a regular reset, and a proportion would remain with the local authority on a longer term basis. As such it may be possible, under a partial reset, to allow local authorities which have seen growth to retain some of that growth with the remaining part being available to support those authorities that have seen their income decline (or their needs increase). Any growth (or decline) at the partial reset could be shared based on overall baseline funding levels or by more precisely reflecting different types of services provided by the authorities.

Therefore, in considering options for a partial reset, local government need to consider the degree of trade-off between allowing authorities to retain growth and supporting authorities which have seen decline (and/or seen needs increase).

Redistribution between local authorities - The Government expects to continue to require 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 on their expected business rates income. These will be fixed between resets.

More generally, the Government is interested in exploring how we could set up a system that minimises the redistribution of rates, while ensuring that areas are not put at a significant disadvantage through collecting less business rates income.

Revaluations - General revaluations of all properties are currently scheduled to take place every five years. The revaluation is the point in the system at which economic changes in property values are reflected in rateable values. The Government is required at the revaluation to reset the multiplier to ensure no more is raised in business rates. As a result, at the national level, any increase in the economic value of the tax base does not lead to any additional business rates income.

Additionally, the Government currently adjusts each local authority's tariff, or top-up, following a revaluation, to ensure that their retained income is the same after revaluation as immediately before. This is to avoid penalising authorities which have generated physical growth but are lagging behind in economic growth. This consultation proposes the same system of revenue neutral revaluations.

More powers for elected mayors - 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% rates retention system. This could include one or more of the following:

- deciding how much 'growth' is redistributed across the area
- being given a single area-wide 'baseline' of relative need and thus a single tariff/top-up, deciding how to distribute to its local authorities
- Determining the relative needs baseline itself.

Tier splits - For non-Mayoral areas there would need to be tier splits. Setting tier splits for the future 100% rates retention system will take some further consideration, and will need to take into account the services that are expected to be delivered at each tier of government. Further work on tier splits 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 authorities -Through the Policing and Crime Bill, the Government is legislating to enable Police and Crime Commissioners (PCCs) to take on responsibility for fire where a local case is made. Whilst fire and rescue authorities are currently part of the business rates retention scheme, police funding is provided separately through the Police Funding Formula. In considering the future approach to business rates retention, it is therefore sensible to look at whether fire funding should remain part of the scheme and the local government finance system in future.

Fire could be removed from the business rates retention scheme, with its funding provided through a separate grant administered by the Home Office. If so, the Government would look to replicate published allocations for 2019-20 for those fire authorities which have taken up their four-year settlement offer.

Enterprise Zones - Under full rates retention, the Government intends that Enterprise Zones and other designated areas will continue to operate as they do currently.

Sharing risk - The Government's aim is to balance risk sustainably within the system. It believes the system should support and reward authorities who make bolder choices, including working with others. At the same time, the system might allow for local government to hold an appropriate risk at an area level, while systemic risk could be borne across all local authorities.

Business rates income is at risk for broadly two reasons:

- Changes to rateable values of hereditaments following successful appeals by ratepayers
- Physical changes to property, including building closures as a result of business failure

These are currently managed through:

- Local authorities making financial provision against known liabilities
- The safety net.

However, the risk profile of authorities varies enormously and this can be because a list is dominated by a single property or because certain types of property are inherently more difficult to value and therefore more liable to be reduced significantly on appeal.

Ratings lists - To either increase or decrease risk, depending on local preference, the following has been suggested:

- Central list (same function)
- Local list (same function, with fewer 'national infrastructure' properties and the riskier classes of properties, dependant on risk appetite)

- Area list (to be created for Combined Authorities which, could take risky or significant property from local lists, Area list income could be made available to the Combined Authorities)

Helping to manage ‘appeal risk’ - The options given to help manage ‘appeal risk’ are:

- Local authorities continue managing the risk, but with increasing central government/other support to improve local ability to set aside the right amount of provisions.
- Local authorities pool their risk at a wider level, with other local authorities in the area
- Risk managed at a national level.

Because of data limitations, no approach is likely to remove the need for authorities to make provision for losses. Any option to manage risk associated with successful appeals will need to be funded from within the overall business rates system.

Insulating against shocks -The Government is interested in views on the right geographical level for managing risk and providing protection and have presented two approaches for “insulating against shocks”.

Firstly, for local authorities pooling risk via an area-level ratings list, and pooled provisions for appeals, their collective ratings income could provide an area-level safety net. Local authorities within that area could decide what proportion of business rates baseline an area-level system would protect. This would make an area more self-sufficient.

Secondly, similarly to the current system, a national safety net could be in place which would require local government collectively to pay for a safety net fund from their retained rates income.

Local tax flexibilities - A key part of the reforms to make local authorities more self-sufficient and better able to drive local growth is the devolving of tax-setting powers. Under the new system, authorities will be able to tailor their own business rates regime to fit the local economic environment. The new powers that the Government is providing are:

- The ability to reduce the business rates tax rate (the multiplier)
- The ability for Combined Authority Mayors to levy a supplement on business rates bills to fund new infrastructure projects provided they have the support of the business community through the Local Enterprise Partnership (LEP).

Many suggestions for how the announced policy could be amended or developed further have been given.

Decision making and costs of reducing the multiplier - Options around how the power should operate in two-tier or in Combined Authority areas alongside the infrastructure levy.

Scope and power to reduce the multiplier - The Government thinks that authorities should continue to use their existing local discount powers for targeted relief and that the new power should be used as a structural power across their areas.

Increasing the multiplier after a period of reduction - Another consideration is how the multiplier could be increased after a period of reduction to catch-up with the 'normal' inflation-linked multiplier ("the national multiplier").

Further suggestions on reducing the multiplier - Suggestions include:

- The role of Mayoral Combined Authorities
- Providing safeguards for neighbouring authorities - Though as all authorities would have similar powers to reduce their multiplier, the Government does not envisage introducing safeguards.

Ability to charge an infrastructure levy -The consultation seeks views on key policy decisions on the design of the power of Combined Authority Mayors to levy a two pence in the pound supplement on business rates bills to fund new infrastructure projects.

Interaction with Business Rates Supplement powers - The existing Business Rates Supplement powers will still be available outside of Combined Authority Mayoral Areas.

Local Enterprise Partnership approval - Consideration of whether the requirement for LEP approval should extend to all the LEPs within the proposed area of application of the levy.

Duration of the levy - Proposed durations are expected to be for a period of whole years and to be included in an initial prospectus submitted to the LEP.

Using revenues which have been raised from the levy - The Government is clear that levy revenues must be used to fund infrastructure projects. Infrastructure could be defined in a similar way to how it is defined for the Community Infrastructure Levy or a different definition could be used to capture different uses.

Multiple levies/multiple projects - There is a question of allowing authorities to charge a single levy for multiple infrastructure projects or multiple levies all at once.

Further suggestions on infrastructure levy:

- Extend the power to raise an infrastructure levy beyond Combined Authority Mayors
- Extend the business consultation requirements more widely
- Include a discount power for Business Improvement Districts (BIDs)
- Amend the definition of infrastructure – These proposals differ from the existing Business Rates Supplement powers, which it has been suggested may provide authorities with greater flexibility to use the power.

Accountability and accounting -This move towards a more self-sufficient local government must be accompanied by a shift towards greater local accountability over funding and the way devolved responsibilities are delivered. There will also be implications for how income from local taxes is accounted for.

The implications and consequences of the new system will need to be considered including accountability and accounting terms, but also the type of information that Government needs to collect from councils as part of the system. These issues may be subject to further consultation.

The balance of local and central accountability - 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.

Fair Funding Review

Alongside the consultation on 100% business rate retention, the Government has also issued a consultation on needs and redistribution. It deals with some of the very high-level principles around needs and redistribution, and precedes a more detailed consultation on needs principles expected in Autumn 2016. It is expected that a final consultation on the formulae will be issued in Summer 2018, in time for implementation in either 2019-20 or 2020-21.

A needs assessment for each authority will remain a fundamental part of the funding system once 100% rate retention is introduced. The Government will continue to measure the ability of each local authority to generate local taxation and its needs. Through the BRRS, the balance will be equalised through tariffs and top-ups, or something similar.

Considerations from the consultations

Complexity

The current 50% scheme is complex, and is made more so by concessions made to businesses since its introduction. On top of these complexities and their accompanying compensation grants, there are other features such as

Enterprise Zones, renewable energy projects and safety nets which have made the system unwieldy in a very short period.

In addition to this complexity at a national level; the current system of tariffs and top-ups creates an environment where there is a large spectrum of risks and rewards between individual authorities. Those authorities with large top-ups will see little benefit of economic growth in their budgets whilst conversely not seeing the impact of a declining tax base. At the other end of the spectrum, made even starker by the removal of levies, there are small authorities with a large financial incentive to grow but also a large penalty for decline. With decisions still to be made about the level and operation of the safety net, these small authorities must be feeling very vulnerable and exposed.

At the time that the current system was being initiated ministers took the decision to protect social care-providing authorities. Hence, all upper-tier and some single tier social care providing authorities are insulated from decline in their area; but not all social care authorities receive the same degree of protection.

The devolution deals on offer have added another level of complexity, as different services are being devolved in different areas. The Government has agreed a number of pilots for the BRRS. Whilst it is important to learn from these pilots, local authorities need assurance that it will not impact on the total quantum to be distributed alongside additional responsibilities. It would be inequitable for funds to be allocated to areas that are given pilot status, with the result that there is a reduced amount of remaining funds for all other authorities.

The Quantum

Current forecasts of the quantum, this being the additional amount available for redistribution, range from an additional £11-15bn. The current economic environment is very uncertain and this, together with increasing levels of risk in service delivery is in danger of being “locked” into the business rates retention scheme.

With all the current uncertainty surrounding the recent decision to leave the EU it would seem prudent for these forecasts to be revised, reflecting the consensus that the economy is entering into a period of reduced growth compared to that forecast prior to the 23 June 2016. This revision will also need to take into account the current push to convert more maintained schools into academies, which as charities are exempt from 80% of their rates bill, as well as the threat of legal action from NHS trusts who consider they are eligible for reliefs from business rates.

The quantum has already been top-sliced for Transport for London (TfL); this is a national income stream and top-slicing in this way will see residents in

one part of the country immediately at an advantage over their fellow citizens. Funding for TfL should have been secured from elsewhere.

New Responsibilities

The Government has set up a number of work streams to examine the various elements of the revised scheme. The Needs and Responsibilities work stream is looking at what services or grants could be transferred to local government to be netted off against the quantum.

Many of the suggested new responsibilities are, in fact, not new responsibilities at all, but merely represent a change of funding stream from specific grant to business rates.

Local authorities want to see powers devolved to them that really are new and that fit appropriately with funding coming from business rates. For example; growth funds, skills and higher education, infrastructure funding and transport investment. Local government want to be able to control their budgets properly in a way that can make a difference locally; not simply administer a benefit or continue providing a service that used to be funded via a specific grant.

Local Resources

Currently a proportion of a local authority's budget is financed by council tax. This proportion ranges between individual authorities and there are a number of reasons for this difference. Over the last decade and a half the Government have continually carried out what is referred to as "resource equalisation", the result of which has always been to penalise those authorities with large tax bases. The resulting inequalities across the country are stark.

When council tax was introduced it was intended to be related to wealth. It was therefore based on property values because, at the time, it was felt this was a suitable proxy for wealth. However, almost 30 years since the last revaluation, it is indisputable that residents in shire areas are paying more than any other class of authority for their services. This is not because shire areas are less efficient, but because the proportion of central funding is less, and therefore a larger element of funding has to be met locally. This is inequitable in terms of affordability for the 46% of the population who live in shire areas and contribute to the economy.

Council Tax makes up a considerable element of local authority budgets and ignoring the current inequality risks undermining the whole process. The 100% retention of Business Rates cannot be viewed in isolation from funding through Council Tax and it is not tenable for the Government to state that these will not be considered.

Funding the Current Pressures

There must be some accommodation to meet unfunded current pressures which are considerable. These have arisen and will continue to arise from the reductions in Government funding, and the increase in demographic growth.

There are complex interdependencies between the NHS and local authority services and finances – where one service is underfunded there is the potential for devastating consequences in the NHS; some of which are becoming more visible recently.

In addition, recent research by the Society of County Treasurers has identified numerous other funding pressures for local authorities including:

- Increased National Insurance Contributions
- Pension Costs
- Reduced income, including business rates income as a result of academisation
- Childrens' Social Care
- Waste Disposal

Before any further services are devolved there must be assurance that these pressures will be adequately recognised by the new Fair Funding formula but also fully funded past the baseline year. In many cases there is little or no correlation between demand for services and economic growth.

Flexibility

Currently, local government are able to vary the council tax precept they set locally. This is done openly through each Council by elected members who are subject to re-election every four years. The introduction of freeze grants and referendum limits have diluted this in recent years but the link still remains that locally raised taxes can be increased to fund services or decreased to reflect local decision making.

This level of flexibility and accountability with regard to business rates should be introduced; not just in areas with an elected mayor. The current proposal to allow local authorities to reduce the multiplier sees no further devolution of powers than those already laid out in the Localism Act. Even in areas with an elected mayor will only be allowed to increase rates if they have agreement from business and the additional funding is to be spent on infrastructure.

If Business Rates really are replacing RSG as one of the primary means of funding local services then local authorities need the power to spend their additional income without restrictions. RSG was used for the totality of the budgets; so business rates, even additional rates as a result of an increased multiplier, should come with the same freedoms.

As the proposals currently stand there will be an inequitable impact on local authorities without directly elected mayors and on the associated service provision for the residents in these areas. This freedom to increase business rates should apply to all.

Given the pressures that local services are under, current burdens will need to be the first call on the new quantum but it will also be necessary for local authorities to be able to exercise genuine flexibility on their income streams, therefore, the removal of mandatory discounts applied to both the council tax and business rates, will provide that flexibility.

In some services the rigid legislation means that local authorities are not able to tailor the services provided to meet the needs of their populations. Being able to vary the eligibility or statutory requirement for services would increase control over budgets too.

Funding Assessment

It is critical that both the BRRS and the needs formula are fit for purpose but they must also work alongside each other. In theory it is possible to match need and resources in the baseline year but the result will be varying levels of risks/rewards. Over time, the impact of revaluations, partial resets and then possible further alterations to the system of mandatory reliefs, as well as demographic growth, need and resources are very likely to diverge. It is therefore important that services are always fully funded and turbulence in the system is minimised.

The current funding baseline is based on a discredited system of thresholds, scaling and ministerial discretion. The underlying need formula only serves to lock in the past patterns of over/underfunding by regressing to past spend and/or activity. The ideal is to see all local authorities start from an equal position where need is funded through agreed cost drivers and not past funding.

Next Steps

Both consultations close on the 26 September 2016. The Council's proposed responses to the consultations are shown in Appendix One.

It has been difficult to comment on some of the proposals as local authorities have not yet been provided with detailed exemplifications. Without this information it is difficult to assess the financial impact. A further consultation is expected in Autumn 2016, when it is expected that these exemplifications will be available.

Further consultations are expected in 2017 and 2018, before the full introduction of BRRS is implemented in 2019-20.

3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, considerations.

4 Social Value Considerations

Decreasing the business rates multiplier and the ability to implement locally managed systems of reliefs are all aimed to stimulate economic growth by encouraging businesses to an area so that they can grow and expand. This will help to deliver jobs and increase skills in the region. It will help to meet the D2N2 target to create 55,000 jobs across the D2N2 region by 2023. Overall, Derbyshire has a high level of economic activity, however the Derbyshire Economic Strategy Statement states that there must be positive interventions to address long term unemployment by maximising the economic offer of all Derbyshire's workforce.

Derbyshire has a good supply of strategic employment and housing sites but much of the land is former industrial land which requires investment in broadband, energy infrastructure, highways improvement and remediation work. The option to implement an infrastructure levy could help to unlock sites which in turn will generate economic opportunities to meet housing and commercial needs.

5 Background Papers

Self-sufficient local government: 100% Business Rates Retention – Department for Communities and Local Government.

Fair Funding Review: Call for evidence on Needs and Redistribution – Department for Communities and Local Government.

Papers held in Technical Section, Corporate Finance, Room 137, County Hall.

6 Key Decision

No

7 Is it necessary to waive the call-in period?

No

8 Officer's Recommendations

That Cabinet:

- i. Notes the details of the Government consultations;
- ii. Approves the Council's response to the consultations as set out in Appendix One.

PETER HANDFORD

Director of Finance

The Council welcomes the opportunity to respond to the two consultation documents issued on 5 July 2016. The Council's responses are set out below, however we wish to raise the further additional comments.

Firstly, it has been difficult to comment on some of the consultation questions without first seeing the financial impact of the proposals. We acknowledge that there is a further consultation expected in the Autumn when the Council will expect to see a number of exemplifications in response to the issues raised in these two consultations.

Need

Developing a Business Rates Retention System that is not overly complex and at the same time addresses the key issue of meeting the needs of an authority will be challenging. The Council strongly believes that the funding formula within the current system must be addressed as there is no correlation between need and economic prosperity. Local authorities need to have confidence that the move to 100% business rates retention provides the freedom and flexibility to deliver local services. There needs to be mechanisms to ensure that demand led pressures and unfunded burdens faced by authorities over the medium term are properly financed.

As a high need council, that has a history of keeping its Council Tax increases low compared to that of other county councils, we are seeking an assurance from the Government, that as Revenue Support Grant is phased out towards the end of the decade, that there will still be a mechanism in place whereby the Government may need to allocate further resources to local authorities to reflect demographic growth.

The Government has yet to provide the background information for its estimates of business rates income over the medium term. Understandably, we are nervous that demographic growth and the financial pressures for demand led services will outweigh growth in business rates.

One of the key issues is whether the growth in business rates and council tax income will match the growth in demand-led services such as social care. Recent research undertaken on behalf of the County Councils Network (CCN) suggests that the average increase in spending on adult social care amongst its member authorities, is likely to be somewhere between 4% and 6% per annum. For all but three of the CCN authorities, the growth in business rates income will be less than the growth in adult social care pressures.

Drawing on the same research, it suggests that business rates growth will be concentrated on a few isolated areas of the country, particularly London. The Council supports the CCN concerns that it wants to ensure that authorities in urban areas do not retain too high a share of national growth, as this would result in an unfair and uneven distribution of growth across the country.

Devolution of Responsibilities

Local authorities need to be given the freedoms and flexibilities to allow local decisions to be made. For example, we do not want to see just a transfer of funding to the Business Rates Retention Scheme, but the ability to amend and adopt eligibility criteria, particularly around reliefs and more so in the event of the Independent Living Fund and Attendance Allowance functions being transferred.

It should be noted that the Council strongly objects to the administration and management of the Attendance Allowance function transferring to local authorities. At a time when there are already unfunded pressures in the system, the transfer of this function would bring an additional pressure if local authorities did not have the freedom to alter the current 'triple lock'. It will also bring the additional costs of administering the function.

Quantum

The Council is concerned about the quantum that is quoted in the consultation document and it would be helpful if the Government will provide details of the estimations used.

Appeals

One of the many considerations which requires redress under 100% Business Rates Retention, is the issue of appeals. The current system is unfair and outside the control of local authorities. For many local authorities, a significant proportion of their rateable value is under appeal. Under the current system, growth in business rates revenue can be reduced by the outcome of appeals. This element of uncertainty needs to be removed from the funding system.

We would urge the Government to consider a system of processing appeals outside of the Business Rates Retention System. It appears logical to fund them from the Central List and the Council, along with many other local authorities, ask that the Government gives consideration to this proposal. We are particularly concerned that the recent decisions by NHS trusts to claim a discount on the basis that they are charitable trusts is a prime example of the uncertainty in the system. Of those trusts who have lodged an appeal, the potential cost could be as high as £250m per annum and if backdated, local authorities would have to pay out £1.5bn.

Combined Authorities

The Council welcomes the Government's proposals for devolution of responsibilities provided they fit the criteria set by the Government. The Council is currently in negotiations with Government to develop the North Midlands Devolution Agreement. However, devolution of responsibilities

should not be restricted to just Combined Authorities. A group of authorities in a particular area can still work collaboratively to deliver services in a region. By working with a group of local authorities, for example, all authorities in a county, has the potential to bring a favourable funding system where the risks and volatility in the system can be shared. Indeed there should be no assumptions about the primacy of Combined Authorities particularly in two tier areas where minor parts of a county area are in a Combined Authority structure.

Share of the Business Rates Split

The current share of business rates in two-tier areas is widely acknowledged as not reflecting the distribution of responsibilities. County councils play a substantial role in delivering economic growth to a region. Neither does it reflect its responsibilities for demand-led services or services linked to economic growth such as transport, housing and schools. The shares need to reflect the new responsibilities being transferred to local government which, in the main, will be county council responsibilities. Further, billing authorities in two tier areas can make decisions around the allocation of business rates that adversely affects major precepting authorities. For full localisation to work in two tier areas all such decisions should be made by a consensus agreement between the councils affected.

Role of the Local Enterprise Partnership (LEP)

The Council acknowledges the role played by LEPs in developing the local economy, however we do not agree that they are in a position to make political decisions. They are not adequately established to scrutinise proposals to raise local business taxes.

The Council believes that any decisions regarding business rates should be left to local authorities who have the governance arrangements in place for good decision making and more importantly are better placed to consult with local business ratepayers.

Infrastructure Premium

Again, the Council does not agree that only areas who have an elected mayor should implement an infrastructure premium. The power should be available to all regions.

Decisions regarding increasing/decreasing the multiplier, introducing local reliefs or implementing a levy can be made by authorities in a region who have the responsibility for economic development.

Academisation

The Council is concerned about the impact of academisation and considers that this is an issue that needs to be addressed. When a local authority maintained school converts to an academy, it can claim rate relief of 80% as academies have charitable status. The impact results in loss of business rates income for local authorities, with the academy able to spend the saving on business rates expenditure on other resources.

Responses

Set out below is the Council's responses to the two consultations, which we trust you will find helpful.

Self-sufficient local government: 100% Business Rates Retention

Question 1: Which of these identified grants / responsibilities do you think are the best candidates to be funded from retained business rates?

The Council makes the following points in respect of the grants being proposed.

- **Revenue Support Grant** – There is a general acceptance that this and the Rural Services Delivery Grant will cease to exist at implementation.
- **Public Health Grant** – A number of activities funded from the current grant are not statutory duties of local authorities. Removing the ring-fence provides greater flexibility to integrate health and social care. The grant has been subject to in-year cuts recently. Local authorities will be seeking some certainty that there would be no further cuts before 2019-20.
- **Improved Better Care Fund** – local authorities would need assurance that there will be no 'ring-fencing' attached to this.
- **Independent Living Fund** – the Council agrees that this is suitable to be funded from business rates.
- **Early Years Block** - currently part of the Dedicated Schools Grant, providing funding of 15 hour entitlement for 3-4 year olds. Currently funding is expected to increase as a result of the Spending Review announcement to double the free entitlement from 15 hours to 30 hours per week. Local authorities expect to see some assurance from Government that the funding will be received to reflect the additional burden. If the ring-fence is removed it will provide more discretion for local authorities to deliver local services.

The primary cost drivers for local government are adult social care and children's services. Therefore, the Council agrees that of the grants listed, the majority are good candidates to be funded from business rates as they will provide the flexibility required to shape and deliver local services.

However, the Council is particularly concerned about the proposal to move the responsibility for Attendance Allowance to local authorities. Whilst the Government confirmed in December 2015 that it would consider the transfer of responsibility to local government, it stated that the transfer would be matched by the handover of equivalent spending power funding. However, the system of payments to claimants contains a 'triple lock' which guarantees an annual increase in payments. If local authorities did not have the freedom and flexibility to vary the payments, local authorities would have a budget pressure year-on-year to be met from its business rates growth. Early estimates suggest that the cost of an inflation-linked increase may be in the region of £1.5m per annum for the Council. This is on top of the unfunded pressures that the Council faces over the medium term. It also brings the additional administrative costs of managing the function and raises the question of whether the costs would be greater when administered by many local authorities compared to one Government department.

Question 2: Are there other grants / responsibilities that you consider should be devolved instead of or alongside those identified above?

The Council reiterates the points made earlier in the response in that we would welcome additional responsibilities of services provided they meet the criteria which matches the purpose of business rates growth in a region in that it brings skills, economic growth and infrastructure. We would not welcome any transfer of responsibility where the service is demand-led and we do not believe that there is a relationship with business rates growth.

Neither, does the Council agree that the devolution of responsibilities should be linked to just Combined Authorities. Local authorities can cite many examples of working collaboratively in a region to deliver improved services to a region, and it already has the decision making infrastructure in place.

Question 3: Do you have any views on the range of associated budgets that could be pooled at the Combined Authority level?

See Question 2 above.

Question 4: Do you have views on whether some or all of the commitments in existing and future deals could be funded through retained business rates?

Local government will need some assurance that grants which are to be transferred into the BRRS, would not be subject to further reductions beyond those determined in the Spending Review 2015.

Funding should not be transferred with conditions. Local government is best placed to determine the best use of its resources and requires the flexibility to improve outcomes for local people.

Local government will still expect specific funding to support Government priorities such as additional one-off funding received in recent years in respect of Special Educational Needs, Adoption Reform, pothole funding and severe weather conditions.

Devolution will not apply to all areas of local government. Therefore, there needs to be some recognition that these funding streams will be allocated to all local government, not just those areas where devolution deals exist. For example, the transport capital grants could form part of the 100% business rates scheme, irrespective of whether a devolution deal is in place, as could the transfer of Bus Service Operator Grant to Councils with upper-tier responsibilities.

Where certain responsibilities are devolved in some areas but not others, an additional element of complexity is added to what is already an intricate funding regime.

Question 5: Do you agree that we should continue with the new burdens doctrine post- 2020?

The Council agrees that the new burdens doctrine should continue post-2020. One of the key principles of a funding system for local government is certainty. It needs assurance that new burdens, post-2020, will not be met from its existing business rates funding as this has the potential to be at the detriment to other local authority services, as cuts to services would be likely in order to balance the costs of providing additional burdens.

Question 6: Do you agree that we should fix reset periods for the system?

The Council agrees that there needs to be a fixed reset for the system. Local government needs certainty in its finance system. Fixed reset periods provide more predictability and stability to local authorities. On this basis, the Council's preferred approach would be a full reset of the system, of say, every three years.

Under a fixed reset, all authorities are brought back to the baseline funding levels on a regular basis. High level modelling completed by the Systems Design Working Group suggests that fewer local authorities would have a detrimental divergence from the baseline funding level under a fixed reset compared to an infrequent reset.

Question 7: What is the right balance in the system between rewarding growth and redistributing to meet changing need?

The majority of services provided by county councils are demand led i.e. adult and children's social care. There is no correlation between economic growth and demand led services, particularly in rural areas. Therefore it is important

that there are frequent reset periods to ensure that redistribution of income is relevant to the needs of local authorities.

Question 8: Having regard to the balance between rewarding growth and protecting authorities with declining resources, how would you like to see a partial reset work?

The Council will need to see the full proposals of a partial reset before it is able to comment. However, we recognise that the system provides an incentive for growth for those authorities who are able to grow their business rates income, together with some assurance to local authorities who have 'negative growth', in that a frequent reset brings authorities back to the baseline funding level.

Question 9: Is the current system of tariffs and top-ups the right one for redistribution between local authorities?

The Council cannot see a better way of ensuring fair distribution amongst authorities other than the current system of tariffs and top-ups. This methodology provides certainty for local authorities by ensuring that the top-ups and tariffs are fixed for the periods between resets.

Question 10: Should we continue to adjust retained incomes for individual local authorities to cancel out the effect of future revaluations?

Whilst the Council, in principle, agrees to the proposal of adjusting retained incomes for individual local authorities, under the current rates retention scheme there has not been a revaluation, so local government has not yet witnessed the impact of a revaluation and its implication on the local government funding system. Therefore, the Council cannot fully support the proposal without first seeing some exemplifications.

Question 11: Should Mayoral Combined Authority areas have the opportunity to be given additional powers and incentives, as set out above?

The Council has no objection to this proposal, but those authorities who do not form part of a Combined Authority should not be discounted from being able to set up a multi-area agreement to determine the distribution of growth across a region, if it can establish governance arrangements for distributing resources.

Question 12: What has your experience been of the tier splits under the current 50% rates retention scheme? What changes would you want to see under 100% rates retention system?

The current system of business rates retention was implemented by the Government to ensure that the strongest incentive for growth is placed in the

hands of the lower tier authorities. This ensures that in two-tier areas, all county councils are top-up authorities, thereby providing a high degree of stability for those authorities responsible for adult social care and children's services.

Generally, local government has accepted the way the two-tier split operates. However, there is an opportunity to review the splits and the Council would welcome exemplifications illustrating the outcomes as part of the planned further consultation expected in the Autumn.

If there is an opportunity to make the system fairer, then this should be examined. However, we would reiterate the earlier point made, that there is no correlation between the needs of demand led services and economic prosperity.

Question 13: Do you consider that fire funding should be removed from the business rates retention scheme and what might be the advantages and disadvantages of this approach?

The Council considers that fire funding should be removed from the BRRS, given the potential for Police and Crime Commissioners (PCC) to take on responsibility for fire services, it will make any future transitions/mergers easier if the fire funding is removed from BRRS now, thereby removing the need to adjust the BRRS each time a fire authority merges with a PCC.

Furthermore, the Council does not think that the fire authority responsibilities fit the four criteria for devolution of responsibilities as set out in the consultation document, nor do fire authority responsibilities provide a clear link with economic growth in an area.

Therefore, it appears practical for all 'blue light' services to be paid as a separate grant.

Question 14: What are your views on how we could further incentivise growth under a 100% retention scheme? Are there additional incentives for growth that we should consider?

Currently, the Council is part of a 'Derbyshire' business rates pool, this being the second year of operating such a scheme. Whilst it is recognised that pooling may cease under proposals of the BRRS as a result of removing the levy, the Council is of the opinion that if a 'Derbyshire' pool is allowed to continue it will help to share the risks and rewards. It would be in the interest of all members of the pool to generate growth, in order to having to make a safety net contribution.

Under current arrangements, the Council only receives 9% of the growth in business rates, as the lower tier authorities are deemed to be the ones who can incentivise growth. Under a pooling arrangement, local authorities should

be given some flexibility to negotiate the tier splits, so that growth can be targeted towards the priorities of the pool to promote collaborative working.

Question 15: Would it be helpful to move some of the ‘riskier’ hereditaments off local lists? If so, what type of hereditaments should be moved?

The Council would refer to the previous question, in that we would prefer the option of pooling in order to mitigate the risk at the local level.

Question 16: Would you support the idea of introducing area level lists in Combined Authority areas? If so, what type of properties could sit on these lists, and how should income be used? Could this approach work for other authorities?

See question 14 and 15.

Question 17: At what level should risk associated with successful business rates appeals be managed? Do you have a preference for local, area (including Combined Authority), or national level (across all local authorities) management as set out in the options above?

See question 14 above.

Question 18: What would help your local authority better manage risks associated with successful business rates appeals?

The Council believes that the billing authorities are best placed to set out the issues encountered in managing risks associated with successful business rates appeals. However, the Council would like to see a system that involves improved working and communication with Government agencies to improve existing processes.

Question 19: Would pooling risk, including a pool-area safety net, be attractive to local authorities?

See Question 14 above.

Question 20: What level of income protection should a system aim to provide? Should this be nationally set, or defined at area levels?

The Council considers that this is difficult to comment on without being able to examine the potential implications. If the Council were not in a position to operate a pooling arrangement or as part of a Combined Authority, it would prefer to see income protection provided at the national level funded from the central list.

Question 21: What are your views on which authority should be able to reduce the multiplier and how the costs should be met?

Under the current economic climate, local authorities are unlikely to have the inclination to reduce the multiplier as they would not have the budget headroom to do so.

It adds an element of complexity to the system and makes it difficult for the taxpayer to understand the system in different areas.

It also raises the question of who makes the decision to reduce the multiplier. In two tier authorities the decision needs to be agreed by all the billing and precepting authorities.

Question 22: What are your views on the interaction between the power to reduce the multiplier and the local discount powers?

The Council would prefer freedoms and flexibilities on local discount powers. For example, if empty property relief was made discretionary it would enable local authorities to target it better. A local authority might wish to give reliefs for a year to one sector or geographical area and only one or two months for another area. For many local authorities, this could be a mechanism to attract inward investment and to support growth of businesses.

Giving local authorities discretion on empty premises relief would enable them to tackle avoidance more effectively, giving them tools to tackle, for example, short periods of occupation, which are frequent and which trigger another period of entitlement to empty property relief.

The detriment to allowing greater discretionary relief, however, is that there is a danger that there are wide variations in discretionary reliefs across the country.

Question 23: What are your views on increasing the multiplier after a reduction?

Allowing authorities to catch up as they see fit could mean that businesses are potentially faced with significant increases. Capping the rate of the increase may dissuade authorities decision to reduce the multiplier in the first place.

Question 24: Do you have views on the above issues or on any other aspects of the power to reduce the multiplier?

The Council is of the opinion that the option should be given to all local authorities not just those who have a Combined Authority.

Question 25: What are your views on what flexibility levying authorities should have to set a rateable value threshold for the levy?

In the interests of ensuring decisions are made for the benefit of local people, the Council believes that the decision should be set locally, not nationally.

Question 26: What are your views on how the infrastructure levy should interact with existing BRS powers?

It raises the question of whether authorities should be able to implement both a levy and Business Rate Supplement in a particular area. The business sector may find themselves facing significant increases in their business rates. To this end, should there be some element of protection for larger businesses to avoid any such increases.

Question 27: What are your views on the process for obtaining approval for a levy from the LEP?

To avoid an additional level of complexity in the decision making, the decision should be left to local authorities.

Question 28: What are your views on arrangements for the duration and review of levies?

The Council agrees with the approach set out in the consultation document in that any proposals should be clearly set out in the LEP prospectus and have a defined period of duration.

Question 29: What are your views on how infrastructure should be defined for the purposes of the levy?

There needs to be a clear definition of 'infrastructure' and the Council agrees with the proposed approach of using the same definition to that currently used for the Community Infrastructure Levy.

Question 30: What are your views on charging multiple levies, or using a single levy to fund multiple infrastructure projects?

The Council agrees that in order to protect local businesses from any significant increases there should be a cap on all levies of two pence in the pound.

Question 31: Do you have views on the above issues or on any other aspects of the power to introduce an infrastructure levy?

See Question 26.

Question 32: Do you have any views on how to increase certainty and strengthen local accountability for councils in setting their budgets?

As mentioned earlier in our response, the Council will want confirmation from Government that there will be no further cuts to the proposed grants being rolled into the Business Rates Retention Scheme. Local authorities need certainty over the medium term given the unfunded pressures and economic uncertainty as a result of the decision to leave the EU.

Question 33: Do you have views on where the balance between national and local accountability should fall, and how best to minimise any overlaps in accountability?

The Council supports the decentralisation of funding as it believes that local authorities are best placed to understand local priorities and therefore, should be given the freedom and flexibilities to deliver local services.

Legislation is currently in place to ensure that local ratepayers, including businesses are widely consulted on spending decisions and priorities.

Question 34: Do you have views on whether the requirement to prepare a Collection Fund Account should remain in the new system?

As the Council does not have to prepare a Collection Fund, we think that the billing authorities are best placed to respond, however, the Chartered Institute of Public Finance Accountancy should be consulted to ascertain their views, given the move towards simplifying authority accounts.

Question 35: Do you have views on how the calculation of a balanced budget may be altered to be better aligned with the way local authorities run their business?

See Question 33.

Question 36: Do you have views on how the Business Rates data collection activities may be altered to collect and record information in a more timely and transparent manner?

The Council considers that billing authorities are best placed to respond to this question. As a precepting authority, we are not required to collect and record business rates data.

Fair Funding Review

Question 1: What is your view on the balance between simple and complex funding formulae?

The Council has always been unsupportive of the Four Block funding model as it lacks transparency and is complex by its very nature, which means that it is difficult to explain to key stakeholders.

It is important that complexity is removed from the finance system to ensure that local authorities can explain its spending decisions to the electorate. We are particularly keen to ensure that 'ministerial judgement' is removed from the system, to ensure that certainty in the system is adopted.

Question 2: Are there particular services for which a more detailed formula approach is needed, and – if so – what are these services?

We refer to our earlier comments made in this response, in that we expect to see a formula that recognises need, particular for demand-led services such as adult social care. Local authorities can provide sufficient evidence of the increasing demographic in their areas, particularly around adult and children's social care, therefore the formula needs to be based on meeting these demands. We cannot have a funding formula that is reliant on the historic costs of an authority to determine how much funding it will receive in the future.

Question 3: Should expenditure based regression continue to be used to assess councils' funding needs?

The Council will be interested to see whether a model can be developed which reflects the cost drivers of local authorities. Again, we refer to our previous comments in Question 2.

The Council is aware of a number of working groups that have been established to examine funding models and we would like Government to work with these groups to examine and develop a simple model that reflects the needs of an authority.

Question 4: What other measures besides councils' spending on services should we consider as a measure of their need to spend?

See Question 2 above.

Question 5: What other statistical techniques besides those mentioned above should be considered for arriving at the formulae for distributing funding?

See Question 3 above.

Question 6: What other considerations should we keep in mind when measuring the relative need of authorities?

See Question 2 above.

Question 7: What is your view on how we should take into account the growth in local taxes since 2013-14?

As stated earlier in our response, the Council is keen to ensure that resource equalisation is reflected in any revised finance system and we reiterate our earlier point about local authorities' ability to raise Council Tax. We would urge the Government to give consideration to reviewing the Council Tax system as part of the fair funding review.

Question 8: Should we allow step-changes in local authorities' funding following the new needs assessment?

The Council agrees that there should be a period of transition .

Question 9: If not, what are your views on how we should transition to the new distribution of funding?

See Question 8.

Question 10: What are your views on a local government finance system that assessed need and distributed funding at a larger geographical area than the current system – for example, at the Combined Authority level?

Please refer to our earlier comments in that we do not feel that distributing funding to larger areas should be available to just Combine Authorities.

Question 11: How should we decide the composition of these areas if we were to introduce such a system?

Local government is best placed to decide how to deliver services at a regional level.

Question 12: What other considerations would we need to keep in mind if we were to introduce such a system?

See Question 10.

Question 13: What behaviours should the reformed local government finance system incentivise?

Local authorities want a finance system that is fair, simple and transparent and reflects the needs of an authority in order to deliver services to local people.

Local government needs to be given the flexibility to deliver services that reflect local requirements and local government is best placed to decide on what these requirements should be.

Question 14: How can we build these incentives in to the assessment of councils' funding needs?

See Question 13.