LGA Briefing on policy paper for the Local Government Finance Bill

18 May 2012

On Thursday 17 May, the Government published seven technical documents relating to the Local Government Finance Bill. These papers cover detailed aspects of the Business Rate Retention Scheme and the Localisation of Council Tax Support. The documents can be accessed at:

http://www.communities.gov.uk/localgovernment/localgovernmentfinance/lgfinancebill/

The Government's Statement on the papers can be accessed using the following link:

http://www.parliament.uk/documents/commons-vote-office/May_2012/17-05-12/2DCLG-Local-Government-Finance.pdf

This Briefing summarises the seven policy papers and provides initial analysis and comment.

LGA Key Messages

- The principle of full business rate localisation would be a powerful move towards localism and a driver of economic growth. The Government's policy is a first step towards this objective but raises a number of concerns.
- These policy papers show that the Government proposes to keep a top slice of 50 per cent of business rates for the Treasury, taking taxes paid by local businesses for local services and using them for local services based on national priorities instead. That is **not a localising policy** and goes against the Government's stated commitment to localism.
- DCLG's technical economic paper clearly states that the growth incentive from localising rates would be more powerful without the set aside. This means that the Treasury's retention of 50% top slice risks putting centralisation ahead of economic growth.
- On Council Tax reliefs, the localisation of responsibility for decisions about who deserves relief from local taxation would be a sensible localising principle. However, the Government is **cutting 10 per cent of the funding** for council tax support.
- The Government's default scheme does not deliver the 10 per cent saving; the Government is asking councils to take decisions about who will bear the cuts which it isn't willing to take itself.
- And conversely, the Government is specifying in detail how these cuts must not happen, but councils will **need as much flexibility as possible** to reform council tax discounts to manage the financial risk.
- **Protecting pensioners and the vulnerable** – who account for three quarters of claimants - means that other groups will inevitably have to face cuts in relief of far more than 10 per cent. The Government's forthcoming publications on protecting the vulnerable and work incentives will further narrow councils' discretion. Councils will be forced

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to make cuts to the services they provide or raise council tax if they want to limit those cuts to Council Tax relief.

- There could be problems caused by treating the new reliefs as adjustments to the tax base, **which could create problems for parish councils' funding.**
- Funding the relief scheme through the business rate goes against the LGA's advice; risks misallocating funding; and risks systematically under-funding the relief scheme for future years.

POLICY PAPERS

BUSINESS RATES RETENTION SCHEME: THE CENTRAL AND LOCAL SHARES OF BUSINESS RATES

1. The statement of intent confirms that the local share will be set at 50 per cent of business rates revenue. The local share will form the baseline for each authority's baseline funding level and tariff and top up amounts. From April 2013, councils will keep all of the growth upon their share, subject to the levy on disproportionate benefit.

2. The local share will remain fixed at 50 per cent until a reset of the system when the baseline funding levels for each local authority will be reviewed to take account of changes in relative need and resource. The Government does not intend to reset the system until 2020 at the earliest and in the long-term aspires to a 10-year reset period, although the length of the reset period and scope will not be set in regulation. The statement also confirms that tariffs and top-ups will be adjusted at each five-yearly revaluation so that an authority's retained rates income is not affected.

3. The Government has confirmed that, in addition to locally retained business rates, each authority within the scheme will also receive supplementary Revenue Support Grant (RSG) to impose councils' overall share of the spending review control total in any given year.

4. The following grants will be rolled into the rates retention system from 2013-14, although the Government has not stated if these will be paid out of the central or the local share:

    - Bus Service Operators Grant – London buses element only
    - 2011-12 Council Tax Freeze Grant
    - Council Tax Support Grant (excluding the amount that will be paid to Local Policing Bodies directly)
    - Early Intervention Grant (excluding funding for free early education for two year olds)
    - GLA General Grant
    - A proportion of GLA Transport grant
    - Homelessness Prevention Grant
    - A proportion of Lead Local Flood Authorities Grant9
    - Department of Health Learning Disability and Health Reform Grant

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- A proportion of Sustainable Drainage Systems Maintenance Costs Grant

5. Further details on the grants to be brought into the RSG will be set out in a summer consultation on business rates retention. The amount of Revenue Support Grant for 2013-14 and 2014-15 will be set out in the 2013-14 Local Government Finance Report.

6. The Government will define in regulations what a billing authority's business rates income is for the purposes of determining the local and central shares. The Government intends that the definition is tied to the business rates payable to the authority, in respect of occupied and empty property, in that year and will take into account the effect of that amount on:

    - Mandatory rate reliefs
    - Discretionary relief
    - Losses on collection
    - Hardship relief
    - Repayments of refunds in respect of previous years.

7. The precise definition of income and treatment of related issues will be worked through with the Local Government Finance Group and form part of the summer consultation.

LGA View:

- The principle of full business rate localisation would be a powerful move towards localism and a driver of economic growth. The Government's policy is a first step towards this objective but raises a number of concerns.
- These policy papers show that the Government proposes to keep a top slice of 50 per cent of business rates for the Treasury, taking taxes paid by local businesses for local services and using them for local services based on national priorities instead. That is **not a localising policy** and goes against the Government's stated commitment to localism.
- The Government's **own economic analysis shows that Treasury interference is putting control ahead of growth**. DCLG's technical economic paper clearly states that the growth incentive from localising rates would be more powerful without the set aside.

BUSINESS RATES RETENTION SCHEME: THE SAFETY NET AND LEVY

1. The statement confirms that there will be a safety net to protect local authorities from significant negative shocks to their income, funded by a levy on authorities that experience disproportionate financial benefit from business rates growth.

2. The Government proposes to set a proportionate levy, with a 1:1 ratio, meaning that for every 1 per cent increase in business rates base, an authority would see no more than a corresponding 1 per cent increase in income as measured against its spending baseline.

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3. The regulations will set out that the funds in the levy account cannot be used for any other purpose than to make safety net payments to local authorities, or in the event that the account is left with a surplus, for that surplus to be returned to local authorities.

4. The Government proposes to set the safety net threshold in the range of 7.5 per cent to 10 per cent below spending baseline. The final percentage is yet to be decided, but the following illustrates how the Government intends the safety net to work. A 10 per cent safety net threshold would mean that safety net payments would be made to take the authority's income up to 90 per cent of its spending baseline where income had dropped below that level. The Government will consult on the proposed safety net threshold in summer.

5. The regulations will set out the detailed calculations the Secretary of State will make to determine whether an authority is to make a levy payment or receive a safety net payment. The Government proposes to make these calculations after the end of each financial year on the basis of final outturn data.

LGA View:

- We support the use of a proportionate levy as this method avoids creating funding cliff edges and potential perverse incentives.
- We are pleased that the Government has recognised the benefits of the clearer and simpler incentive scheme that we proposed in our consultation response.
- However, we are concerned that the proposed safety net threshold could leave local authorities exposed to levels of volatility in their income that could have an adverse impact on local services and local residents.
- We again call for the Government to work with us to set out a sensible risk management strategy at the outset of the scheme.

BUSINESS RATES RETENTION SCHEME: POOLING PROSPECTUS

1. The Government has also released a prospectus that sets out the process for formally designating pools of rate income across a number of councils. Local authorities are invited to come forward with their pooling proposals by 27 July 2012.

2. Local authorities in a pool will be treated as a single body, for the purposes of calculating tariffs, top-ups, levy and safety net payments, Pages 11-13 of the prospectus set out illustrations of how a pool might work and how the levy and safety net might be applied to it.

3. Pooling arrangements will be voluntary and it would be for pools themselves to decide how to distribute aggregate revenues within the pool. If a pool is dissolved, members of a pool would return to their individual tariff, top-up and levy amounts.

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4. It will be for local authorities to determine the geographic coverage of a pool, subject to the following requirements:

   - There should be a clear rationale for the coverage that is proposed
   - Pools should operate on a whole local authority basis, and an authority can not be a member of more than one pool.
   - Authorities will have to nominate one member to act as a lead

5. In order to support local authorities develop a pooling proposal, the Government will shortly publish a revised version of the interactive calculator. The interactive calculator enables users to explore the principal features of the proposed business rates retention scheme by entering their own inputs and varying components.

BUSINESS RATES RETENTION SCHEME: THE ECONOMIC BENEFITS OF LOCAL BUSINESS RATES RETENTION

1. The government has carried out a simulation exercise, using empirical results from economic literature, to gauge the likely economic impact of the partial retention of business rates growth

2. Across a range of simulations, the middle-case scenario predicts that, given the 50 per cent local share and seven year reset period, an additional £10.1bn of GDP could be created.

3. In the lowest-case scenario £1.7bn of GDP is created over 7 years, and in the best-case scenario £19.9bn of GDP is created.

4. The government states that the size of the incentive is affected by the size of the local share of business rates, the levy on disproportionate gain, the length of time until the next reset and the tier-split.

5. The basis for these estimates is a calculation of the size of the incentive for each billing authority to expand its commercial floorspace. Authorities are then grouped into behaviour groups and an appropriately increased growth rate for commercial floorspace assumed for each group. A national projection of increased business floorspace is then combined with data on the ratio of commercial floorspace to GDP to arrive at estimates of the increase in GDP from the incentives provided by business rates retention.

LGA View

- The Government's analysis states that the incentive for councils would be greater if there was no central share. As the Government has opted for a central share we believe this shows the Government has set controlling local authorities' funding above promoting economic growth as an objective.

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BUSINESS RATES RETENTION SCHEME: RENEWABLE ENERGY PROJECTS

1. The statement confirms the list of qualifying technologies that will be included in the definition of renewable energy projects:
    - onshore wind power
    - offshore wind power
    - hydroelectric power
    - biomass
    - biomass conversion
    - energy from waste combustion
    - anaerobic digestions, landfill and sewage gas
    - advanced thermal conversion technologies – gasification and pyrolysis
    - geothermal heat and power
    - photovoltaics

2. Billing Authorities will be responsible for determining which properties should qualify as a renewable energy project – e.g. where it is a new build, or has been converted or expanded and meets the renewable energy definition, or where renewable technologies have been installed with a separate identifiable impact on rateable value.

3. In two tier areas, all business rates income will be retained by the local planning authority that is the decision maker for the renewable energy project, whether at county or district level (with certain exceptions or allowances for National Park Authorities and London authorities).

4. The regulations will provide that business rates income from such renewable energy projects will be retained in full by the Billing Authority and as such the income will be disregarded from calculations in the rates retention scheme on the central/local share, levy, and re-set of tariff and top-up amounts. The total amount of business rates income resulting from a new renewable energy project will be disregarded.

5. The Local Government Finance Bill, currently before Parliament, will provide for the Secretary of State to make regulations to designate classes of hereditaments and for business rates income from those hereditaments to be disregarded from levy calculations in the rates retention scheme. This will provide a mechanism for the Secretary of State to define a renewable energy project, in line with the Government's policy intention

LGA View:

- The LGA welcomes full retention in this area but believes communities should keep the additional business rates which development generates.
- Local circumstances will clearly dictate different approaches to strategic planning for renewable energy deployment. The LGA

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through PAS has produced advice around the duty to cooperate and strategic planning for local authorities, see www.pas.gov.uk

- In the spirit of the localism and on-going work to both simplify and speed up the planning system it is crucial that the necessary regulations are light touch, decreasing Whitehall's control over the minutiae of how this agenda works on the ground, and increasing the ability for important decisions to be made at the most appropriate local level.

LOCALISING SUPPORT FOR COUNCIL TAX: FUNDING ARRANGEMENTS CONSULTATION AND STATEMENT OF INTENT

The two documents published cover funding and statements of intent covering transitional arrangements, pensioners, the default scheme and the tax base. We are expecting further announcements on the consultation on discounts and exemptions, covering for example, second and empty homes and guidance on work incentives and the needs of vulnerable people shortly.

Localising Support for Council Tax – Funding Arrangements consultation

From 2013-14 support for council tax in England will be localised. The funding will be cut by 10%. The government will provide funding for councils. In total this will be based on 90% of forecast council tax benefit expenditure for 13-14. Based on the Budget 2012 estimates this will be around £3.3bn

The government intend that the grant for councils except policing bodies should be part of the local share. That means that it will be identified in the 2013-14 baseline but will then increase in line with top-ups, tariffs, levies and safety nets along with the rest of local share expenditure.

Separately the Government is working with local authorities and the DWP to establish the administrative costs of new schemes and the net new burdens. The statement does not go into any further detail on this.

Distribution

The document proposes that funding be distributed between areas in line with shares of annual subsidised CTB expenditure, within areas it will be distributed to, for example, districts, counties, police and fire bodies in line with their shares in the 2012 council tax.

The document recognises that for some authorities council tax benefit forms a high proportion of their overall revenue expenditure. It proposes that for those authorities there be a 'floor', expressed as a proportion of overall budget pressures. This would be paid for by a 'ceiling' on the authorities with the lowest pressures. It prefers this approach to one which bases funding on the total number of pensioners, who are protected under the scheme, because it says that this represents different proportions of budget pressures in different areas.

The government will use 2011-12 outturn data. However this is not yet available. The document contains exemplifications based on the best

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current data. It notes that these could change but says that they provide a basis for planning.

Parish and Town councils

Some of this funding will relate to sums that are currently passed to parish and town councils through local precepts. The document says that one way of preventing higher local precepts is for districts to pass down an element of this funding; this is identified, council by council, in the exemplifications. It notes that parish and town councils are not currently subject to the council tax referendum provisions of the 2011 Localism Act but that they could be in the future. It therefore invites districts and parishes and town councils to work together on managing this together.

Localising Support for Council Tax – a statement of intent

This document provides five policy statements of intent on areas where the Government intend to issue regulations. These are:

- Requirements to prepare a scheme;
- Transitional arrangements;
- Prescribed requirements for the pensioners, the default scheme and for all schemes;
- Adjusting the council tax base;
- Risk sharing of financial pressures.

It also notes that the government is going to move amendments to the Local Government Finance Bill on investigation and prosecution of fraud and on data sharing with HMRC.   These two areas are not covered in any further detail but the Government says it will provide further statements of intent on them while the Bill is still in Parliament.

Requirements to prepare a scheme

This sets out the steps councils will have to go through to prepare a scheme. The billing authority (district, borough or unitary authority) must consult major preceptors (such as counties, fire, police and the GLA). The Government will not prescribe the form in which the scheme must be published or exactly what shape the consultation should take. If a council proposes to adopt a scheme which is similar to the default scheme it still has to consult, but if the government imposes the default scheme there is no requirement to consult.

Transitional arrangements

This will provide for an application for council tax benefit before 1 April 2013 which has not yet been determined to be treated as an application for council tax support without requiring a fresh application.

Prescribed requirements

All schemes   A small number of requirements will apply to all schemes, they affect some people subject to immigration controls, other than refugees, who are not currently eligible to receive CTB. They will also

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provide for the four week period when people become pensioners.

The pensioners scheme This will apply to all those who are eligible for CTB who have reached the pension credit age. It should be noted that this gradually increasing; it currently stands at just over 61. Under this scheme recipients will get exactly what they would have got under council tax benefit, including reductions for rules relating to income and savings. At least initially this will also cover households where one partner is of working age, and not a recipient of income related benefited, and the other one is a pensioner. However in the future it will fall into line with DWP changes which will mean that for 'mixed' households both partners have to be of pensionable age to qualify.

The default scheme This scheme is the essentially the current CTB scheme for working age recipients. If a council adopts it, it will mean that it will have to find the 10% gap from other means, such as changes to discounts and exemptions or other savings or income. Like the current CTB scheme it contains regulations covering income, savings and non-dependent deductions (deductions for non-dependent adults who live in the dwelling). Regulations will also cover those students who do not receive a student exemption (for example those on sandwich courses); replicating current CTB regulations.

Further amendments to the regulations will allow for the introduction of Universal Credit from October 2013.

Council tax base

The Government will amend the current regulations which govern the council tax base (the number of dwellings in an area, taking into account the different council tax bands and mandatory discounts and exemptions) to take into account the new council tax reduction schemes. This currently makes no deduction for CTB. The regulations will require billing authorities to calculate the council tax base taking into account local council tax support. This will mean that the taxbase, for example, will no longer include households such as pensioner households who get 100% council tax support; this will instead be paid for through the new funding arrangements; it will be adjusted for any new income raised through local council tax support schemes.

Risk sharing of financial pressures

This covers sharing financial pressures between, for example, counties and districts. It provides that if there is a sudden or unexpected increase for council tax reductions billing authorities such as districts could vary the payments they make to major preceptors such as counties to enable them to manage this pressure.

LGA View:

- On Council Tax reliefs, the localisation of responsibility for decisions about who deserves relief from local taxation would be a sensible localising principle. However, the Government is **cutting 10 per cent of the funding** for council tax support.
- The Government's default scheme does not deliver the 10 per cent saving; the Government is asking councils to take decisions about who

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- There could be problems caused by treating the new reliefs as adjustments to the tax base, **which could create problems for parish councils' funding.**
- Funding the relief scheme through the business rate goes against the LGA's advice; risks misallocating funding; and risks systematically under-funding the relief scheme for future years.

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