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100% Business Rates Retention

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1. Introduction

1.1 On 15 February 2017, the Department for Communities and Local Government (DCLG) published the outcome of the consultation, *Self Sufficient Government: 100% Business Rates Retention,* and issued a further consultation, *100% Business Rates Retention: further consultation on the design of the reformed system*. The respective documents can be found by clicking on the links below:

- Outcome of the Consultation – Self Sufficient Government: 100% BRR
- New Consultation – 100% BRR: Further consultation on the design of the reformed system.

Background

1.2 On 5 July 2016, DCLG published the first consultation paper on the proposed move to 100% Business Rates Retention. LG Futures provided a briefing on this, which is available here. Then, on 13 January 2017, the government published the Local Government Finance Bill 2016-17, with accompanying Explanatory Notes relating to the Bill. This Bill provided for, among other things, the primary legislation to facilitate the move to 100% Business Rates Retention. The Bill and associated documents are available here.

1.3 On 31 January 2017, factsheets were published by DCLG relating to the legislative framework being established to support the introduction of 100% Business Rates Retention and these are available here. LG Futures provided a briefing on these factsheets and this is available here.

1.4 This briefing note summarises the key issues emerging from both publications produced on 15 February, with Section 2 covering the outcome of the first consultation and Section 3 covering the questions and issues raised in the second. A summary of the key issues that (i) are known about the new system and (ii) what is still to be decided, are set out below:

What we know now

- The government is still hoping to introduce 100% BRR by 2019/20;
- The system will not have a levy on growth; the existing system of Top Ups and Tariffs will remain and there will be a Safety Net;
- All authorities will be invited to participate as a business rate pilot for 2018/19;
- The government favours partial resets of business rates and a redetermination of need every five years. Partial resets should allow a proportion of local growth to be retained beyond a reset;
- Appeals following revaluation will be paid for centrally, using a top-slice of business rates income;

- Business Rate Pools will be determined by the Secretary of State and will not require local authority approval. Pool membership could include a number of benefits to local authorities, including Local Growth Zones, which would make elements of growth exempt from Resets;
- RSG, RSDG, Public Health Grant and the GLA Transport grant will all be funded through 100% BRR. Attendance Allowance will not be devolved under 100% BRR. The remaining grants and/or new responsibilities that will devolved will be determined by Spring 2018.

What is still to be decided

- Tier splits in two tier areas, although the government has indicated its preference of aligning local shares to the proportion of local need (i.e. aligning business rates income and expenditure);
- How NDR Baselines will be determined at the Reset (i.e. what figures will be used and how many years' worth);
- The workings behind the £12.5bn figure that government believe is available to be rolled in;
- The level of Safety Net support, although it would appear that it could be more generous (in cash terms) than the current system;
- What the new nationalised system of appeals will look like and how the transition to a nationalised system of appeals will take place. Both of these will have significant financial impact for local authorities;
- The technical details. There is still a huge amount of technical detail that needs to be determined on issues such as how a partial reset could work; progressing future resets of Need; which further grants or responsibilities could be devolved; how much growth could be retained. These technical details will in large determine the financial consequences for individual authorities of the move to 100% BRR.

2. Outcome of the Initial Consultation

2.1 The government has published its own response to this consultation and this is available here.

2.2 The government received 454 responses to the initial consultation, of which 62% were from individual local authorities. In its response to the views expressed, the government has clarified how it believes a number of the issues that were raised should be progressed. These are summarised below.

Summary

2.3 The main points that have been confirmed by the government in its response to this consultation are as follows:

- Funding through Revenue Support Grant (RSG), Rural Services Delivery Grant (RSDG), Public Health Grant and the GLA Transport Grant should all be devolved and provided through business rates retained;
- Funding for Attendance Allowance **will not** be devolved;
- A decision on the range of other grants and responsibilities to be funded from retained business rates is expected in the spring of 2018 (for a potential implementation in April 2019);
- It remains open to the possibility that some grants devolved through devolution deals could be funded from retained business rates in future;
- The new burdens doctrine will continue post-2020;
- Fixed reset periods will be built into the future 100% business rates retention system;
- The government is exploring how a partial reset could help to establish a 'reasonable' balance between rewarding growth and redistributing for changing need;
- Redistribution of resources will continue through a system of tariffs and top-ups in the new system;
- The government has not committed to Revaluation being revenue neutral for individual authorities. Decisions on this will relate to continuing work between central and local government to improve the rates retention scheme, so that it 'incentivises and rewards economic growth';
- There **is not** yet a consensus on the future of tier splits under 100% business rates retention. The government intends to launch further pilots of 100% Business Rates Retention in April 2018, including in two tier areas;

- The Local Government Finance Bill will allow pools of authorities to designate their own local growth zones;
- Government **does not** intend to explore, at this time, localising mandatory business rate reliefs;
- The risk and income volatility associated with appeals is being addressed within the Local Government Finance Bill, which will enable government to direct financial support to where losses are experienced through a system of 'loss payments';
- No decision has been taken on how the safety net operates. This will be subject to additional consultation;
- The government will continue to work with local government representatives to consider how to refresh the central list and how to provide greater clarity about the businesses that sit on each list;
- The government **does not** intend at this time to introduce area lists;
- The power to reduce the multiplier will be provided to all local authorities, subject to the principle that the authority taking the decision to reduce the multiplier should bear the costs of doing so;
- The application of an Infrastructure Levy **will not** be extended to areas beyond Mayoral Combined Authorities;
- There will no longer be a requirement for an annual local government finance report approved by the House of Commons;
- The requirement to prepare a Collection Fund Account will remain under the new system;
- The requirement for an annual balanced budget requirement will remain; however, work will continue to identify whether an updated calculation that maintains the financial control elements of the current system can be designed.

Devolution of Responsibilities

2.4 The government received a breadth of responses on whether the grants they listed should be funded through business rates retention. Those receiving the most positive support for being devolved, amongst those expressing an opinion, were: Revenue Support Grant (RSG) – 92%; Rural Services Delivery Grant (RSDG) – 81%; Public Health Grant – 78%; Youth Justice – 78% and Localised Council Tax Support (LCTS) Administration Subsidy – 74%.

2.5 A number of other grants also received majority support from those expressing an opinion, including Former Recipients of Independent Living Fund (FRILF) Grant (62%); GLA Transport Grant (59%); Early Years Funding from DfE (57%); and Improved Better Care Fund (53%).

2.6 However, 98% of those with a view were **against** the devolution of Attendance Allowance.

2.7 The government has decided that RSG, RSDG, Public Health Grant and the GLA Transport Grant funding should all be devolved and provided through business rates retained. In addition, it has stated that funding for Attendance Allowance **will not** be devolved.

2.8 It will continue to discuss what other grants could be devolved, including those that were not in its original consultation, but which were suggested by those responding. A wide variety of responsibilities were suggested by these respondents. These could primarily be split into three key themes:

- Skills and careers services;
- Transport Infrastructure; and
- Housing.

2.9 The government expects to make a decision on the range of grants and responsibilities to be funded from retained business rates in spring 2018, for a potential implementation in April 2019.

Funding of devolution deals through business rates retention

2.10 The government remains open to the possibility that some grants devolved through devolution deals could be funded from retained business rates in future. In order to explore the practicalities of this option, the government has agreed to test this through the early implementation pilots, where Greater Manchester, West of England, and Cornwall will have Transport grants funded from retained business rates.

New burdens doctrine

2.11 There was overwhelming consensus from respondents (98%) in support of the continuation of the new burdens doctrine post-2020. The government has confirmed that the new burdens doctrine will continue post- 2020. Where a new burden is defined as any policy or initiative which increases the cost of providing local authority services and the doctrine being that the department leading on such a policy is responsible for securing the resources needed to fund the net additional cost falling on local authorities from its policy, and for making any necessary resource transfer

Reset periods

2.12 There was a wide range of views expressed in response to the questions on whether the reset period should be fixed; on the period of time between resets; and on whether resets should be full or partial; where a full reset result in no growth being retained locally and a partial reset allowing a proportion of growth to be retained.

2.13 The majority of respondents were supportive of the idea of a fixed reset period. In addition, the largest group of respondents (32%) proposed five years as a suitable time between resets. However, there was no clear preference from respondents about whether the system should prioritise rewarding growth, or redistributing business rates income to meet changing need.

2.14 The government explains that different types of authority tended to favour different approaches. For example, shire district councils tended to lean towards a system which favoured rewarding growth, whilst metropolitan districts were more in favour of redistributing to meet changing need.

2.15 The government has confirmed that it will look to build fixed reset periods into the future 100% business rates retention system.

2.16 The government is exploring how a 'partial' reset could help to establish a reasonable balance between rewarding growth and redistributing for changing need and will continue to work with local authorities on this.

2.17 In addition, the government is currently legislating through the Local Government Finance Bill to allow pools of authorities to designate their own local growth zones that could be protected from any reset.

Tariffs and top-ups

2.18 81% of respondents agreed that the current system of top ups and tariffs is an appropriate method of redistribution. The government intends for redistribution of resources to continue through a system of tariffs and top-ups in the new system.

Adjusting retained incomes to cancel out the effect of future revaluations

2.19 A significant majority (72%) of respondents recognised that revaluation should continue to be a revenue neutral exercise for individual authorities. However, the government has not committed to this. It states that it will continue to work with local government to improve the rates retention scheme, so that it incentivises and rewards economic growth.

Additional powers and incentives for Mayoral Combined Authorities

2.20 The government has not made any firm decision on this. It will continue to explore the options for additional opportunities for local authorities working together over wider geographic areas.

Tier splits under 100% Business Rates Retention and Fire shares

2.21 It is clear that there is not yet a consensus on the future of tier splits under 100% business rates retention. To help facilitate a continued dialogue, the government has asked further questions on tier splits in the business rates consultation paper published alongside this response. The government intends to launch further pilots of 100% Business Rates Retention in April 2018, including in two tier areas.

2.22 The government also believes that the proposal to remove Fire funding requires further consideration.

Central lists and area based lists

2.23 The government recognises the need for greater transparency and it will continue to work with local government representatives to consider how to refresh the central list and how to provide greater clarity about the businesses that sit on each list.

2.24 The government will move the operation of the central list (i.e. the business rates collected directly by DCLG for network and utility properties) from regulations to direction making powers, including retrospective powers, to update the list to reflect changes to ratepayers and properties.

2.25 The government does not intend at this time to introduce area lists i.e. a list that groups together typically larger / higher risk heriditaments are a sub-regional level (e.g. under a combined authority), in order to share the risks and rewards more evenly.

Managing risks

2.26 The government indicates that it has introduced legislation that will allow it to help local authorities manage the risk and income volatility associated with appeals, but to better direct this support to where losses are experienced through making ‘loss payments’.

2.27 The government recognises that there is a need to set out further information on the operation of the safety net.

Local tax flexibilities

2.28 The government has confirmed that, in line with the clear steer from respondents, the power to reduce the multiplier will be provided to all local authorities, subject to the principle that the authority taking the decision to reduce the multiplier should bear the costs of doing so.

2.29 However, the government does not consider that the application of an Infrastructure Levy (i.e. a supplement to the multiplier to pay for specific infrastructure projects) should be extended to all areas.

2.30 In using the powers to introduce an Infrastructure Levy, the following principles were also confirmed:

- A minimum threshold will be put in place below which businesses will not be liable for the Supplement and levying authorities will also have the opportunity to increase that threshold, taking account of local circumstances;
- After responses on how the LEP might be involved in the introduction of the Levy, the Local Government Finance Bill contains proposals that any supplement should be subject to a statutory consultation process for all affected businesses;
- Levying authorities will have the flexibility to operate multiple Infrastructure Supplements in accordance with the infrastructure needs of the area, and also give local ratepayers certainty through a cap of no more than 2p. This cap will apply either to a single supplement, or to the total cost of multiple supplements.

Accountability and accounting

2.31 In responses to the consultation, the government has confirmed:

- The Local Government Finance Bill has proposed legislation that seeks to remove the current requirement for an annual local government finance report approved by the House of Commons;
- The requirement to prepare a Collection Fund Account will remain under the new system. Detailed proposals on how the accounting requirements can be modified to make the Collection Fund Account more useful will be considered by the Systems Design and Accounting and Accountability working groups over the following months;
- The requirement for an annual balanced budget requirement will remain, although work will continue to identify whether an updated calculation that maintains the financial control elements of the current system can be designed.

3. February Consultation Document

3.1 The questions within the further consultation are focused on technical issues that need to be resolved for the new scheme to work effectively. However, the consultation also provides some useful background information on issues such as the timetable for future announcements.

3.2 This background information, alongside the questions raised and the issues that appear to be resolved from the previously consultation (outlined in Section 2), provide greater certainty regarding the eventual design of the system and those issues that need to be resolved in order to finalise the system.

3.3 This section first sets out the issues covered in the 'Introduction and Overview' of the consultation, before moving on to analyse the seven questions raised by the consultation within the sections on "Rewarding Growth" and "Managing & Sharing Risk".

Introduction and Overview

Timetable

3.4 The consultation re-iterates the commitment to introduce 100% Business Rates Retention (100% BRR), *"subject to parliamentary approval"* in 2019/20. Given the assumption throughout the process (which continue in this document) that "Need" will be re-assessed at the same time, this would suggest that the SFA allocations for the final year of Spending Review 2015 (2019/20) will be revised to reflect the new measure of Need.

3.5 The consultation provides the following timetable, designed to deliver the new system for 2019/20, which includes the publication of a consultation paper on the Fair Funding Review in February 2017.

Timeframe	Event
Feb-17	Publication of further consultations on design of the 100% Business Rates Retention system and on the Fair Funding Review.
Apr-17	Piloting of the approach to 100% BRR begins in Cornwall and the combined authority areas of Greater Manchester, Liverpool City Region, West Midlands, and West of England. In addition, GLA will take on responsibility for TfL capital funding and will receive a higher share of business rates.
Autumn 2017	Planned publication of further detail on secondary legislation, including draft regulations where possible.
Apr-18	Further piloting of the approach to 100% Business Rates Retention begins in areas not covered by devolution deals, including two tier areas.
Spring 2018	Aim to decide on package of responsibilities to be devolved for the commencement of new 100% Business Rates Retention system.
Summer 2018	Planned consultation on new relative needs baseline for new system.
Apr-19	Expected implementation of 100% BRR across local government.

Business Rate Pilots

3.6 The timetable includes the start of the initial business rates pilots in April 2017 and further pilots beginning in April 2018. The consultation states that all councils will be invited to apply to pilot aspects of 100% BRR from April 2018 and more information will be published about this process shortly.

3.7 This offer to all authorities (and not just those with devolution deals), depending on the criteria, could provide an opportunity for authorities to (i) influence the future design of the scheme i.e. by trialling an approach and showing that it works and (ii) keeping additional resources locally in 2018/19 e.g. if they are above the baseline for the existing share (and even more so if they are paying a levy).

3.8 Following the publication of the offer, LG Futures will be able to provide further support to authorities in determining the potential local benefits of becoming a pilot and through the application process.

Assessing the Value of Business Rates Income

3.9 In moving to 100% BRR, it will be necessary to determine the value of the 50% of business rates income that central government is going to give up (in order that an equal an opposite value of grants are devolved/new responsibilities are added).

3.10 Given that the move to 100% BRR is due to coincide with a Reset, there is the potential for any business rates growth achieved by 2019/20 to be lost. This would involve a higher (than inflationary increase) Business Rates Baseline being set which would allow for more grants/responsibilities to be rolled in. The consultation paper indicates that the additional business rates income available to local government by 2019/20 is currently estimated at around £12.5bn.

3.11 Initially, this would appear to be the existing business rates baseline inflated for OBR's inflation projections i.e.

Business Rates Retention	2017/18 £m	2018/19 £m	2019/20 £m
NDR Baseline	11,651	12,025	12,453
Multiplier Growth		+3.22%	+3.56%

3.12 However, the baseline is based on business rates income projections prior to the policy changes that are now subsidised through Section 31 grant i.e. the move to 100% Small Business Rates Relief (SBBR) and the increase to SBRR thresholds. In the 2017/18 NNDR1 forms, it is estimated that these reliefs are worth £382m (local authority share), with this figure set to increase, once a method is determined for assessing the cost of the first 50% of the relief and the lost supplement from the higher thresholds.

3.13 In the move to 100% BRR, it would be expected that baselines would be adjusted to remove the need to pay the S31 grant, which would presumably reduce the forecast

£12.453bn forecast above to closer to £12.0bn. This therefore raises the question as to where the remaining £0.5bn that government claims needs to be rolled in is to come from.

3.14 In addition to DCLG's share from the local list (i.e. the £12.5bn figure above), there is also the potential to include the amounts collected from the Central List, which is estimated to be worth £1.8bn. This issue is covered in more depth below, as question 7 of the consultation paper relates directly to it.

Fair Funding Review

3.15 The paper indicates that authorities' Baseline Need amounts under 100% BRR will be based upon:

(i) A new method of determining local need for existing amounts distributed under SFA; and

(ii) Bespoke distributions for grants rolled in/new responsibilities.

3.16 This approach will be similar to the method in determining the original Baseline Need amounts in 2013/14, when the four block model was used in conjunction with "tailored grant figures".

Devolution of Responsibilities

3.17 The paper confirms that the following grants will be rolled into 100% BRR:

- Revenue Support Grant
- Public Health Grant
- GLA Transport Grant
- Rural Services Delivery Grant

3.18 It also confirmed that Attendance Allowance will not be devolved.

3.19 The rolling in of the four grants above is estimated by government to be worth half of the additional £12.5bn needed to make 100% BRR revenue neutral. The consultation confirms that the government will continue to work with local government, through the Responsibilities Working Group, to identify the remaining responsibilities, and, if there is a need to consult further, will do so, in due course. The intention is to decide on the package of responsibilities in spring 2018.

Top Up/Tariff adjustment

3.20 The current 2019/20 SFA amounts include the contentious "Top Up/Tariff Adjustments" that, for certain authorities, see large reductions to resources between 2018/19 and 2019/20, due to previous years' adjustments being removed. Of course, there are still risks to these authorities, including (i) the timetable is delayed to 2020/21; (ii) the revised methodology for Need still reduces resources (although this would be potentially subject to damping); and (iii) how damping is determined e.g. would it be based on 2018/19 allocations or would it be on the existing 2019/20 allocations?

Rewarding Growth

Resetting the System

3.21 The consultation includes all of the key issues regarding the system design e.g. the reset, appeals, retaining growth etc. It also appears logical in how it is approaching each of these issues, with the intention being to create a stable and fair system that will allow growth to be retained beyond resets. However, its opening argument for resetting the system links two issues that do not need to be linked and ignores an issue that is perhaps responsible for a high proportion of the gains and losses under the current system.

3.22 The consultation states that a balance is needed between redistributing business rates to meet changing relative need and using the system to provide an incentive for growth. However, these two elements of the system do not need to be linked. Changing relative need can be achieved either through year on year data change or periodic stepped change e.g. once every five years as per the consultation paper.

3.23 This would require the Baseline Need amounts to be recalculated for each authority and would lead to changes to the Top Up/Tariff amounts, which the government has confirmed will be retained in the new system. Similarly, the Business Rates Baseline can be reset through a change to the NNDR Baseline, which would also lead to changes to the Top Up/Tariff amounts. But, crucially, these two changes can be undertaken independently of each other, thereby not ruling out either element being updated more or less often.

3.24 The issue that the consultation fails to mention is the subjective nature of setting the NNDR Baseline and the windfall gains and material losses that the 2013/14 baseline created. Of course, some of the current gains and losses have been caused by the uneven distribution of appeals (and this will be addressed under the new system). Similarly, if larger items were moved from the local to central list, it would remove some of the outlier authorities that have either had large windfalls or are stuck on the safety net under the current system. But, even with the removal of these issues, Resets will still mean that authorities gain or lose resources due to the methodology used and not economic growth/decline.

3.25 Whilst the consultation chooses to ignore windfall gains and losses and substitute the issue for one that is linked to need i.e. *“there is a risk that redistributing too infrequently could result in authorities not being able to deliver services where relative need grows faster than local tax resource”;* ultimately, its conclusions remain valid i.e. that periodic resets are needed. The consultation states that they are needed to balance growth against changing need, but resets are needed to remove windfall gains/unrealistic targets.

3.26 The consultation suggests that a five-year reset period be used, which is, in part, based on responses to the previous consultation and work undertaken by the various working groups. In this consultation, the government is seeking views on how it could work in practice, although confirming the move to a five-year Reset is only a proposition at this point.

3.27 The consultation proposes the idea of a partial reset, which would allow a proportion of growth by individual authorities to be retained locally beyond a reset period whilst at the same time those experiencing losses (i.e. collecting below their baseline) would not be expected to carry these forward. A diagram setting out how the system could work is provided in the consultation and set out in **Appendix A**.

3.28 Of course, there is a variable element with these intentions, which would be the extent to which the revised NNDR Baseline targets were realistic (in allowing a proportion of growth to be retained or losses removed). For example, using two years' worth of data rather than four years' may result in a higher or lower NNDR Baseline for individual authorities and therefore influence their ability to be above their NNDR Baseline post-Reset.

3.29 The consultation states that *"Local Government has been clear that they feel the balance of needs between authorities is changing quickly and there should be a reassessment of needs relatively frequently to respond to these changes".* For this reason, the proposed system would reassess need in line with the reset every five years. Whilst this would suggest that the system could be responsive to changing need, the consultation also suggests that transitional arrangements could be required to avoid significant changes in income between years (i.e. at the point that need was updated). It goes on to suggest that these arrangements could last for as long as four years, but would need to end prior to the following update of need.

3.30 For those authorities with increasing relative need, this is encouraging, as the current system did not unwind the damping from 2013/14 and will be at least six years out of date even on the 2013/14 Settlement by 2019/20. However, the use of transitional arrangements of up to four years could mean that it will take to 2023/24 to eventually arrive at the calculated level of resources, which may be considered too long.

3.31 Given that current allocations still reflect the damped 2013/14 allocations, this would mean a delay of 10 years in arriving at allocations determined by the formula. Authorities may argue that transitional arrangements of this type are too long and that a similar approach is taken to Revaluation 2017, where it was argued that by delaying Revaluation by two years, that in itself was a form a damping, and, therefore, it was reasonable to have a reduced period of transitional arrangements.

3.32 Of course, there are alternative methods to this stepped change in need, which would then take up to four years to reach. For example, annual updating of data would allow the system to respond to relative need changes much faster and avoid the resulting stepped change from periodic updates.

3.33 What is perhaps encouraging from a local government perspective is the approach being considered for determining the level of partial reset needed. This approach appears to need to take an amount of growth from authorities equal to the amount that authorities are below the baseline.

3.34 So, for example, if there 100 local authorities with the following position compared to NDR baseline at the reset:

- 40 authorities NDR Baseline £100m vs. collecting £120m
- 60 authorities NDR Baseline £200m vs. collecting £195m

In order to keep the NNDR Baseline at £300m nationally (ignoring inflation that would apply to all authorities), the 40 authorities above the baseline would be allowed to keep 75% of their growth, with the remaining 5% used to bring the remaining 60 authorities back to the baseline.

So, the following year's position would be (all things being equal)

- 40 authorities NDR Baseline £105m vs. collecting £120m
- 60 authorities NDR Baseline £195m vs. collecting £195m

3.35 This approach could indicate that growth in the new system would be retained by local authorities and not used to fund new responsibilities or allow further grants to be rolled in. This interpretation is perhaps an area that the sector would wish to have clarified, along with the associated issue regarding the ability to keep the CPI growth in business rates without compensating reductions in other income streams.

3.36 The approach outlined appears to deliver in terms of aiming to remove unrealistic baselines; allowing the sector to keep all of the growth (if that is the intention), and allowing a proportion of growth to be retained locally. The approach does, of course, raise the issue of the lack of certainty over what percentage "partial" would mean i.e. under this system, it would not be known until the reset was undertaken (thereby not providing any certainty in terms of medium term financial planning).

3.37 In other words, the level of growth for an individual authority would be determined by (i) the level of growth nationally and (ii) the amount of this growth needed to offset authorities that are below baseline). However, for particular projects/areas that are funding sensitive, the issue could be addressed through the Local Growth Zone proposals (see below).

3.38 Whilst this system could still leave authorities at the safety net for a number of years, the potential for this to occur appears to be reduced through appeals being nationalised and its impact could potentially be less severe, depending on the level of the Safety Net (see question 6).

3.39 The consultation invites responses to the following question.

Question 1: What are your views on the proposed approach to partial resets?

3.40 As indicated above, a key element of the reset is the methodology for determining authorities' revised NNDR baselines. For example, what data is used and for which years. The consultation explores these issues and seeks views on factors to consider when calculating growth; these being:

- The baseline against which growth is to be measured;
- Whether to measure growth in real or nominal terms;
- Whether to measure growth at a single point in time, or whether to measure growth as an average over several years (and if so, how many);
- What proportion of growth to allow to be retained by authorities that have achieved growth over the reset period.

3.41 The consultation invites responses to the following question.

Question 2: What are your views on how we should measure growth in business rates income over a reset period?

Business Rates Pooling

3.42 The government believe that local authorities can achieve greater impact when working together and therefore wants to *"continue to encourage and reward pooling under 100% BRR".* The paper suggests that the current approach to pooling under 50% BRR *"does not work well"* and *"does not achieve the potential benefits that more ambitious pooling arrangements could bring".*

3.43 It believes that the current approach incentivises the wrong behaviours, with authorities being perceived as high risk being excluded from pools. This comment is perhaps a reflection of pools that have excluded authorities with large outstanding appeals from the pool, through concern that the pool will make a loss if the appeal was to come in at a higher amount than provided for, or where pools have limited the number of members, in order to reduce the net levy for the pool (thereby increasing the resources retained locally and reducing the amount paid in levy to DCLG).

3.44 Based on work undertaken for pools by LG Futures, there is no doubt that these behaviours exist, but, without them, the risks of pooling could significantly outweigh the rewards and, therefore, a number of pools would not have gone ahead without such decisions being made.

3.45 Of course, the proposed removal of the levy for 100% BRR would remove the current financial incentive to pool. DCLG see these changing circumstances as an opportunity to take a fresh approach to pools and have reflected this in the wording of the Local Government Finance Bill. <u>The Bill removes the requirement for local authority consent,</u>

but introduces a requirement to consult with affected local authorities. This is intended to ensure that *"all authorities in a functional economic area will have to take those decisions seriously".*

3.46 In order to make pooling more attractive, the consultation lists a number of rewards that are to be explored for pools of authorities, including:

- Offering up additional growth incentives – including the ability for the pool to set their own local growth zone (see below)
- The option of retaining additional growth in business rates income through a reset of the wider system;
- A different level of safety net, to provide additional support to those authorities willing to be ambitious in their plans for growth;
- Different or additional responsibilities to be funded through Business Rates Retention that would be better exercised at a larger geographical area.

Local Growth Zones

3.47 One of the incentives for pooling authorities is the proposal to allow them to create their own local growth zones. These zones would allow authorities to retain growth outside the reset system for a specified number of years.

3.48 The government proposes to set out a number of parameters for these zones and then allow pooling authorities to set up and define the relevant area. This approach could potentially provide local authorities with the certainty needed around retaining growth to finance borrowing needed for investment.

3.49 The consultation lists a number of parameters that could be included in discussions with pools regarding the establishment of their zones; these being:

- The proportion of growth retained in the local growth areas;
- The rateable value of hereditaments in the geographical areas to be designated and/or the proportion of the total business rates income that could be covered by the local growth areas;
- The number of years for which the local growth areas would exist;
- Definitions about the geographical areas;
- A connection to investment from the local authority/ies in the local growth areas;
- The purposes for which growth in business rates income from the local growth areas could be used.

3.50 The consultation states that Local Growth Zones are likely to have a *"small impact on the total growth in business rates to be redistributed by at a partial reset".* This suggests that the number of zones and/or their size may be limited. However, given that the consultation also states that *"we want to reward local authorities for being ambitious in their plans",* given the right set of circumstances, the size of any such Local Growth Zone may not be a limiting factor.

3.51 The consultation paper invites responses to the following question.

Question 3: What are your views on the Government's plans for pooling and local growth zones under the 100% Business Rates Retention system?

Managing & Sharing Risk

Managing the Impact of Successful Appeals

3.52 The consultation reiterates the government's intention to nationalise the appeals' system (as previously set out in the Local Government Finance Bill and Policy Notes). This revised approach will see the current allowance for appeals (that is spread across all authorities evenly) retained centrally, in order to reimburse authorities for appeal losses as they occur; reflecting the fact that the incidence of appeals are not evenly distributed. This change should see a reduction in business rates volatility, both in terms of successful appeals reducing income, but, perhaps more significantly, through the removal of the estimated appeals' provisions that, for good reasons, are often incorrect.

3.53 The intention is for "loss payments" to be made directly to local authorities for loss of income resulting from changes to the ratings list relating to valuation errors (following revaluation). It is understood that it is not the intention to reimburse authorities for successful appeals on new or altered elements of properties, post-revaluation. The wording also suggests that changes in reliefs would not be covered e.g. charitable status (as the rateable value remains the same, it is just the amount to be paid that has altered).

3.54 This would also suggest that, where schools are becoming academies post-April 2017, any successful change of status (i.e. potentially the NHS relief issue) for elements after April 2017 would not be covered. Similarly, the potential move of Virgin Media to a single site would not be covered or any subsequent move to the Central List (although, through its increased powers within the Local Government Finance Bill, government will have greater control over the Central List).

3.55 Details on how loss payments are calculated and made are to be set out in further proposals later in the year.

3.56 The consultation invites responses to the following question.

Question 4: How can we best approach moving to a centrally managed appeals risk system?

Tier Splits

3.57 The consultation confirms that the government is to maintain tier splits within the 100% BRR system. It considers how these tier splits affect the gearing of two tier authorities i.e. the amount of local business rates that a council is able to raise (based on its local share), compared to the amount assessed for its Baseline Funding Level. Districts are highly geared authorities under the current system, and they can see NNDR Baseline being up to 10 times greater than Baseline Need. Conversely, County Councils have a low gearing level (less than 1), with NNDR Baseline being lower than Baseline Need in each instance.

3.58 Whilst the consultation acknowledges that organisations representing those affected are considering the issue, perhaps the most significant part of the text is the government stating that *“the closer that local tax resource to baseline funding level, the better the balance of risk and reward from growth for a local council”.*

3.59 This suggests that the government believes it is better for the split to reflect baseline funding and would require a significant shift in the county: district split. For example, (these numbers have been chosen for illustration purposes within this note and <u>are not</u> included in the consultation document) counties could move from 10% to 80% or more and districts moving from 40% to 20% or less. This change would also have two further advantages:

(i) Without a levy in the new system, there is no longer a mechanism to restrict large gains to individual authorities (which would be more likely to occur when authorities are highly geared); and

(ii) There would be a reduced likelihood of authorities requiring the safety net, as again, this is more likely when authorities are highly geared (and only a small percentage reduction in business rates leads to a large reduction in retained resources).

3.60 The consultation also acknowledges that some responses to the previous consultation suggested that two tier areas be left to set their own splits and the government is seeking further views on this approach.

3.61 It should be remembered, of course, when considering this issue, that current levels of gain or loss do not necessarily reflect future levels. Therefore, an authority that is far exceeding its current target business rates level (and therefore gaining resources above its Baseline Funding level), may form a view that it would like its share of the retained rates to be as high as possible. But post-Reset, it could then find that it no longer is exceeding the target amount and actually has resources below its Baseline Funding level.

3.62 The consultation invites responses to the following question.

Question 5: What should our approach be to tier splits?

Safety Net

3.63 The consultation confirms that there will be a safety net under the 100% BRR system. It recognises the need for a safety net for those authorities that *"experience shocks to the system, such as the closure of a major ratepayer".* However, the consultation believes demand for safety net payments should reduce under five-year resets and appeals being nationalised.

3.64 The current safety net is funded through the levy and a top-slice of RSG. In the absence of a levy under 100% BRR, the government propose a top-slice to the overall quantum, using the same approach as for loss payments (appeals).

3.65 The paper suggests that the government would like to keep the current method of calculating the safety net. However, in order to reflect the increased cash risk in moving from 50% to 100% BRR, its level would increase. Whilst there is no figure proposed for the new system, the paper notes that a safety net of 97% is being trialled for the 2017/18 business rates pilots.

3.66 This level is actually higher (more generous) than the current level in cash terms i.e. the equivalent amount under the current system would be 94%, compared to the current level of 92.5%. This potential increase is perhaps indicative of (i) the reduced risk of authorities hitting the safety net due to appeals and (ii) the potential for authorities being lower geared (through tier splits being altered).

3.67 The consultation invites responses to the following question.

Question 6: What are your views on proposals for a future safety net under the 100% Business Rates Retention system?

Central List

3.68 The consultation states that the government, through changes within the Local Government Finance Bill, want to provide greater stability and certainty for local government in terms of whether heriditaments should be on the local or central lists. Specifically, the government intends to:

- Review the contents of the central list to ensure that it (and local lists) are consistent with this policy and make any changes between central and local lists in time for the introduction of 100% BRR; and
- Consistently maintain the central list and ensure that it reflects the central list policy over time.

3.69 Prior to the introduction of 100% BRR, the government will consult ratepayers and local government on:

- The details of the central list policy;
- How it will undertake a review of the central list ahead of 100% BRR in a way which supports the set-up of the reformed system whilst continuing to support the existing 50% BRR system; and
- How it will then maintain the practical application of the central list policy.

3.70 The consultation invites responses to the following question.

Question 7: What are your views on our proposals for the central list?

4. Responding to the Consultation

4.1 The deadline for responses to the consultation is 3 May 2017. Enquires about the consultation should be sent to: BRRconsultation@communities.gsi.gov.uk

4.2 Responses should be sent either by email to BRRconsultation@communities.gsi.gov.uk

Or by post to:

Business Rates Retention Consultation
Local Government Finance
Department for Communities and Local Government
2nd floor, Fry Building
Marsham Street
London SW1P 4DF

4.3 A summary of the questions is provided below.

Question 1: What are your views on the proposed approach to partial resets?
Question 2: What are your views on how we should measure growth in business rates income over a reset period?
Question 3: What are your views on the Government's plans for pooling and local growth zones under the 100% Business Rates Retention system?
Question 4: How can we best approach moving to a centrally managed appeals risk system?
Question 5: What should our approach be to tier splits?
Question 6: What are your views on proposals for a future safety net under the 100% Business Rates Retention system?
Question 7: What are your views on our proposals for the central list?

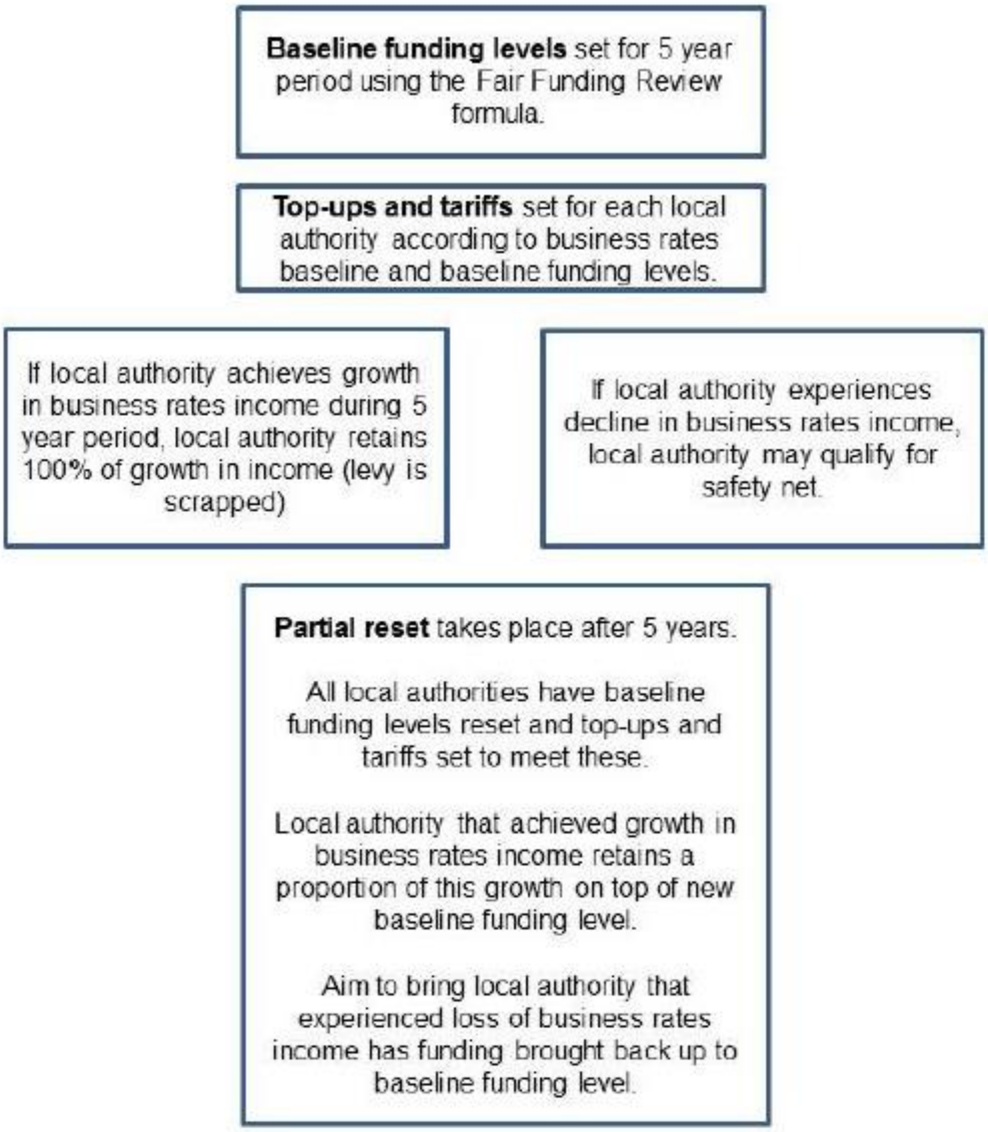
5. LG Futures' Support

5.1 LG Futures is able to provide further support to local authorities on the consultation documents, including:

- Identifying the potential implications of the proposals locally;
- Drafting responses to the consultation question;
- Supporting authorities in determining the potential local benefits of becoming a pilot and through the application process; and
- Developing medium term financial plans that consider the potential risks and rewards that your authority will face under the proposals.

5.2 For further information, please contact Lee Geraghty at lee.geraghty@lgfutures.co.uk or by telephoning 07738 000368.

Appendix A


Baseline funding levels set for 5 year period using the Fair Funding Review formula.
Top-ups and tariffs set for each local authority according to business rates baseline and baseline funding levels.
If local authority achieves growth in business rates income during 5 year period, local authority retains 100% of growth in income (levy is scrapped)
If local authority experiences decline in business rates income, local authority may qualify for safety net.
Partial reset takes place after 5 years.
All local authorities have baseline funding levels reset and top-ups and tariffs set to meet these.
Local authority that achieved growth in business rates income retains a proportion of this growth on top of new baseline funding level.
Aim to bring local authority that experienced loss of business rates income has funding brought back up to baseline funding level.