

## **Draft LGA Response to MHCLG Business Rates Retention Reform Consultation**

### **Purpose**

For action.

### **Summary**

This report provides a summary of the Government's recently published consultation on Business Rates Retention and asks for member comment on the draft LGA response which has been developed with the LGA Task and Finish Group on Business Rates Retention and the Fair Funding Review.

### **Recommendation**

That members provide comment on the draft LGA response to the Business Rates Retention consultation (**Appendix A**).

### **Action**

Officers to amend the draft response on the basis of the comments of members of the LGA Leadership Board and Executive and to submit the final version ahead of the 21 February 2019 deadline for responses.

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### **Introduction and Background**

1. The consultation document [Business Rates Retention Reform Sharing risk and reward, managing volatility and setting up the reformed system](#) was published on 13 December 2018. The document commits to the principle of further Business Rates Retention and to 2020 implementation. The consultation closes on 21 February 2019.
2. This report summarises the consultation and attaches for comment the LGA response (please see Appendix A) which is based on policies previously agreed by Leadership and Executive, or developed following a discussion at the Business Rates Retention and Fair Funding Task and Finish Group on 20 December.
3. A final consultation on the reform of the system including details of implementation and transition will be published before summer recess 2019, with final policy decisions in Autumn 2019 and implementation in Spring 2020. A brief summary of the consultation document follows.

### **The balance of risk and reward**

4. **Resets** are seen by the Government as key to the balance of risk and reward. It confirms that 2020 will be a full reset but there are various options for later resets. Partial resets were supported by 83 per cent of respondents to the previous consultation. The Government suggests that full resets should be kept as an option perhaps once every fifteen years. Phased resets, which are a recent development, are seen as the most desirable option, where authorities retain growth for a number of years (the document mentions five years). It would be possible combine phased and partial resets. It notes that more work is needed on transition, on the time period between resets and on aligning with revaluation (which are due to take place every three years).
5. The **Safety Net** is to remain as a way of softening shocks to the system by setting a minimum Baseline Funding Level. It is expected to continue to function as a 'simple' safety net, without taking account of the position over more than one year. The document does not propose a level but notes that the 75 per cent pilots will use 5 per cent and the 100 per cent pilots 3 per cent. The Government expects the safety net to continue to be funded through the levy and top-slice; the latter means that the cost would be shared among all authorities; not just those who have achieved growth. The cost of the safety net will be lower if appeals are addressed.
6. As for the **Levy** – the consultation notes that scrapping this is government policy but this requires primary legislation so reform is the best option. The document uses the term 'extraordinary growth' to describe what might be captured by the levy and seeks views

on what level should be regarded as extraordinary. The examples it gives are 100 per cent, 150 per cent, 200 per cent and 250 per cent.

7. The Government is minded to retain a national **tier split** between billing and precepting authorities with the opportunity for this tier split to be decided by representatives from relevant authorities. It notes that tier splits determine gearing and that the original aim of the 80:20 split in favour of shire districts in the 50 per cent system was to protect counties and incentivise districts. MHCLG would like a sector-led decision on tier splits nationally but may need a backstop in the event that agreement is not reached.
8. Pooled authorities will continue to be allowed to vary tier splits within the pool. The tier split in London between boroughs and the GLA will continue to be determined separately in consultation with London authorities and standalone fire and rescue authorities will continue to have a tier split of 1%.
9. The Government view is that **Pools** are a desirable element of the system and allow better planning and decision making and a joint approach. The document asks for views on how to incentivise pooling, but there are no specific suggestions included.

### **Central and local lists**

10. The Government is conducting a review of the **Central and Local Lists** with the aim of creating a rational and transparent system which is uniform across the country in terms of which list similar types of hereditament appear on. The criteria which have previously been considered by the officer groups are set out in Annex A of the consultation are:
  - 10.1 firstly the nature and use of the property (for example national networks);
  - 10.2 its size and geographical spread (a decision to be taken on a case by case basis);  
and,
  - 10.3 The suitability or otherwise for it to be on local lists (if it can reasonably be assessed on the local list it should stay on the local list).
11. The Government has ruled out placing hereditaments on the central list purely based on risk and invites ratepayers and authorities to submit candidates for changing lists based on the criterion develop. Examples might be large telecoms networks and HS1 which could go on the central list and small independent energy networks which could go on local lists. Baselines would be adjusted for hereditaments moving between lists; the most suitable time would be a reset.

### **Simplifying the system and reducing volatility**

12. Following some errors in the 2018/19 local government finance settlement the Government commissioned Andrew Hudson to undertake a review of the governance and processes which underpin MHCLG's oversight of the business rates system. The

MHCLG consultation document on business rates retention refers to a recommendation made by Hudson for a simpler and better understood system.

13. **Appeal and other valuation changes** – The document reaffirms the Government commitment to address the issue of the impact of appeals on council budgets. It sets out four options which have been considered but ruled out due to a number of issues including complexity and being counter to legally required accounting practice. The government states that the alternative approach considered below is the only way to address appeals volatility.
14. The Government summarise **reforming the administration of the system / the alternative approach** as the only viable method of addressing the volatility caused by appeals. The Government believes that this approach will retain core principles of giving authorities more control over the money they raise and rewarding local authorities that grow their business rate income. The Government is proposing that they could adjust for the impact of appeals by having floating tariffs and top-ups, that is tariff and top-ups that change every year rather than being fixed (as they are in the current system albeit updated by inflation each year). Certainty is to be provided by ensuring that authorities receive their income, net of provisions for appeals, equal to their needs assessment plus or minus any growth or decline in business rates and the safety net and levy. The Government states that under this alternative system local authorities would still keep 75 per cent of growth in business rates. The table below summarises the similarities and differences between the current system in terms of how it would be likely to operate from April 2020 and the alternative system.

	<b>Current system</b>	<b>Alternative system</b>
Business Rates baseline	Top down system based local authorities share of the amount expected to be collected nationally less national provision for appeals	Business rates to be collected for the year as estimated annually by each authority
Funding baseline	Based on the outcome of the Fair Funding Review including relative needs, relative resources and transition	Based on the outcome of the Fair Funding Review including relative needs, relative resources and transition

	<b>Current system</b>	<b>Alternative system</b>
Top-up / tariff	Business rates baseline less funding baseline Fixed between resets other than being uprated by inflation every year	Business rates baseline less funding baseline revised each year based on each authority's assessment of business rates collectable plus/minus growth or decline in business rates, the safety net and levy
Safety Net and levy	Applied according to rules and paid separately	No change to the way safety net and levy would work – but any payments would be included in top/up tariff
Treatment of appeals	Provisions for appeals reduces retained business rates growth	Provisions for appeals does not reduce retained business rates growth although actual payment for appeals does
Business rates growth retention gain / decline	75% of difference between actual business rates collected and business rates baseline as adjusted by top-up/tariff and levy/safety net.  Need to provide for appeals can reduce benefit of growth retained	75% of difference between actual business rates and estimated business rates baseline (both adjusted to take out the effect of appeals provisions) as adjusted by top-up/tariff and levy/safety net.  Need to provide for appeals is taken into account in calculation of top-up /tariff so does not impact on growth retained

15. Under the alternative model there would still need to be decisions made about the level of the safety net and levy, and tier splits.

### **Setting up the reformed system**

16. This consultation also covers how the business rate baseline would be set if the alternative system is not adopted and business rates retention continues to operate as it does now with fixed tariffs and top ups. It proposes baselines would be based on 18/19 outturn returns (known as NNDR3s) uprated by inflation, as 19/20 NNDR3s would not be available, with averages for appeals and non-collection. It describes different ways of working out the averages.

### **LGA response**

17. Appendix A of this report contains a draft response based on policy positions agreed by the Leadership Board and Executive during previous meetings, and policy lines proposed by the LGA Task and Finish Group at their meeting in December 2018. Members of the Task and Finish Group have also commented on the draft consultation response. This response was also shared with officials from the County Councils Network, the District Councils' Network, London Councils and the Special Interest Group of Metropolitan Authorities. We did not receive any comments that would require a change to the draft response.

### **Next steps**

18. Officers will amend the draft response on the basis of the comments made by members of Leadership Board and Executive.
19. This response will be finalised before the 21 February 2019 deadline for responses. It is proposed that the LGA Chairman and Group Leaders provide any final clearance if required.
20. LGA and MHCLG officials are also in the process of running a series of regional events to discuss the consultation directly with officials and politicians from local authorities across England. At the time of the meeting, events in London, Taunton and Bury St Edmunds will have taken place, with events in Leeds and Birmingham to follow in early February.

### **Implications for Wales**

21. Local government funding is a devolved matter and Business Rates Retention and the Fair Funding Review are limited to English local authorities.

### **Financial implications**

22. The work is part of the core LGA work programme and as such is budgeted for within existing budgets.