TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

06 September 2016

Report of the Director of Finance and Transformation

Part 1- Public

Executive Non Key Decisions

1 SELF-SUFFICIENT LOCAL GOVERNMENT: 100% BUSINESS RATES RETENTION CONSULTATION DOCUMENT; AND FAIR FUNDING REVIEW: CALL FOR EVIDENCE ON NEEDS AND REDISTRIBUTION

In July 2016 the Department for Communities and Local Government published two papers – Self-sufficient local government: 100% Business Rates Retention Consultation Document; and Fair Funding Review: Call for evidence on Needs and Redistribution. This report provides an overview of both documents, together with proposed responses to both papers.

1.1 Introduction

1.1.1 In October 2015, the Government announced that, by the end of the Parliament, local government will keep 100% of the income raised through business rates, and will take on new responsibilities to be funded from this additional income as central government grants are phased out.

1.1.2 In launching the 100% Business Rates Retention Consultation, the Rt Hon Greg Clark MP said 'this crucial reform will make councils the drivers of economic growth in their communities, while also helping to transform the key services that their residents value'.

1.1.3 Alongside the 100% Business Rates Retention Consultation is to be a Fair Funding Review. Its aim to provide councils with their fair share of funding according to local needs under the new system.

Self-sufficient local government: 100% Business Rates Retention Consultation

1.1.4 This consultation seeks views on the implementation of the Government's commitment to allow local government to retain 100% of the business rates that they raise locally. Specifically this consultation seeks to identify some of the issues that should be kept in mind when designing the reforms. A more detailed technical paper is expected to be issued for consultation in due course.

1.1.5 The consultation can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535022/Business_Rates_Retention_Consultation_5_July_2016.pdf

1.1.6 The return date for responses to the consultation is 26 September 2016. A copy of the proposed response can be found at **[Annex 1]**.

Fair Funding Review: Call for evidence on Needs and Redistribution

1.1.7 The Government is to undertake a Fair Funding Review of what the needs assessment formula should be with the implementation of 100% business rates retention and, as a first step, has issued a 'call for evidence'.

1.1.8 The paper can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534956/Discussion_document_-_Needs_and_Redistribution.pdf

1.1.9 The return date for responses is again 26 September 2016. A copy of the proposed response can be found at **[Annex 2]**.

1.2 100% Business Rates Retention

1.2.1 Key changes will include:

- Ensuring the system is designed to encourage and reward councils that promote and support economic growth in their areas.
- Ensuring a system of redistribution of funding that recognises the needs and demands of different councils, including in cases where there are combined authorities and mayoral areas.
- Measures to manage risk within the system, including the improved management of appeals.
- Ability to reduce the business rates tax rate (the multiplier) and 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.

1.2.2 Elements of the current system expected to remain include:

- A level of redistribution between councils, through a system of top-ups and tariffs – underpinned by the Fair Funding Review.
- Protection built into the system to insulate authorities from shocks, or significant reductions in income.

- Enterprise Zones continuing to keep 100% in the growth in business rates for 25 years.

- The New Burdens Doctrine, which requires Departments to assess and fund the impact on councils of any new policies, will remain in place.

Background

1.2.3 Before considering the move to 100% business rates retention it might be helpful to remind ourselves, in broad terms, of the current Business Rates Retention scheme. Currently, in two-tier areas such as Kent the business rates 'take' is split: Central Government 50%, Borough Council 40%, County Council 9% and Fire Authority 1%.

1.2.4 By way of example, the business rates baseline for a borough council based on a business rates 'take' of £60m would be £24m (£60m x 40%). The authority's business rates baseline is then compared to its baseline funding level (**relative need**). Where an authority's business rates baseline is higher than its baseline funding level it pays a tariff and where the reverse is true it receives a top-up. If the authority's baseline funding level is £2m it would pay a tariff of £22m in this example (£24m - £22m). The baseline funding level is the sum included in the Settlement Funding Assessment as part of the Local Government Finance Settlement.

1.2.5 Some examples of how the current scheme works in practice based on the above example are given below.

1) Business rates 'take' £61m. Of the additional £1m (61m - £60m) the borough council share is £400,000 on which a levy of up to 50% is paid. At a levy rate of 50% the additional business rates retained by the borough council is £200,000 over and above the baseline funding level of £2m. It should be noted that for authorities in a business rates pool the levy rate is notably lower and can be nil.

   The Government has already announced that the levy on growth will be scrapped under 100% business rates retention.

2) Business rates 'take' £59m. In this scenario the borough council's retained business rates income is £1.6m (£59m x 40% minus the tariff of £22m). However, a safety net 'kicks in' at 92.5% of the baseline funding level or £1.85m (£2m x 92.5%). As a result the borough council receives a safety net payment of £250,000. The £1.85m is £150,000 short of the baseline funding level set out in the Local Government Finance Settlement which is met by the borough council.

1.2.6 Example 2 above is a position we found ourselves in following our joint highest business ratepayer going into administration (something we had no control over) shortly after the introduction of the current Business Rates Retention scheme. As

a result, since 2013/14 through to 2016/17 the Council will receive around £619,000 less than the amounts set out in the Local Government Finance Settlements over the same period as detailed in the table below. In other words, the Council is not receiving what is deemed to be its relative need over that period of time (see paragraph 1.2.4).

	2013/14 £	**2014/15 £**	**2015/16 £**	**2016/17 £**	**Total £**
LGFS	2,010,774	2,049,945	2,089,115	2,106,525	8,256,359
Safety Net	1,859,966	1,896,199	1,932,431	1,948,536	7,637,132
Shortfall	**150,808**	**153,746**	**156,684**	**157,989**	**619,227**

Devolution of responsibilities

1.2.7 A list of potential responsibilities that could be transferred to councils has been published to be funded from additional retained business rates. No matter which new services councils agree to, the amount of extra business rates income kept by councils must meet their cost, **both now and in the future**. Government also needs to allow councils to use some of the extra business rates income to meet existing funding gaps. We do not believe that demand-led services (e.g. Attendance Allowances) that can increase very quickly and services where there is a statutory obligation to provide them (e.g. Disabled Facilities Grants as part of the Improved Better Care Fund) are candidates for devolution under this scheme and where demand is not related to economic growth.

Business rates system

1.2.8 On the extent and frequency of resets, and taking account of our own experience to date, officers' view is that there should be a full reset of the system, including all achieved growth, every five years particularly as local authorities under the new system will be **heavily dependent on business rates income for delivery of core services**.

1.2.9 The Government's intention is to maintain the current top up and tariff system. Top-ups and tariffs will be fixed between resets (with similar adjustments to the current system for multiplier increases and revaluation) to promote growth. The Government currently adjusts each authority's tariff, or top-up, following a revaluation, to ensure that their retained income is the same after revaluation as immediately before.

1.2.10 On the subject of tier splits and whether fire authority funding should be removed from the business rates retention scheme, it seems appropriate, as with police funding, that fire authority funding be provided through a separate grant and, in so doing, introduce in an area such as Kent a two-way split.

1.2.11 As Members are aware, this Council saw its joint highest business ratepayer go into administration shortly after the introduction of the current Business Rates

Retention scheme pushing the Council into safety net (where it has remained). This matter was taken up at the time with the then Minister for Local Government, Kris Hopkins.

1.2.12 A change we would want to see is for the safety net to be at the baseline funding level (see paragraph 1.2.17), and on that basis for the split in two-tier areas to be 50:50.

1.2.13 On the other hand, if the safety net is to be set as now, coupled with the likelihood that baseline funding levels will increase to reflect any additional responsibilities transferred to councils, the tier split will need to reflect exposure to risk and resilience/ability to manage risk.

1.2.14 Setting tier splits for the future 100% business rates retention is to be the subject of further consideration, and will need to take into account the services that are expected to be delivered at each tier of government and the impact of different options on a local authority's exposure to risk and incentive to grow their business rates base.

1.2.15 The paper reaffirms the previous announced commitment that Enterprise Zones will remain in place and with the original funding guarantee (100% growth guaranteed for 25 years).

1.2.16 The paper asks about 'riskier' hereditaments, e.g. power stations, oil refineries and national airports and whether it would be helpful to move these from the local rating list to the central list. Again, if the safety net is set at the baseline funding level the need to do so is less acute than it would otherwise be. It is not clear what is to be seen as 'riskier' - e.g. would Aylesford Newsprint have fallen into that category? - albeit the removal of hereditaments that were more in the nature of national infrastructure seems appropriate.

1.2.17 Again, **taking account of our own experience** it is proposed that the **safety net be set at the baseline funding level** as this is, to all intents and purposes, a measure of need. It would reconcile with what is set out in the Local Government Finance Settlement; and is a figure that is, more often than not, used for budgeting purposes and as such should aid financial planning, together with the likelihood that baseline funding levels will increase to reflect any additional responsibilities transferred to councils. How this is to be funded of course will need to be included in the design of a new business rates scheme.

Local tax flexibilities

1.2.18 Local authorities will have the ability to reduce the business rates tax rate (the multiplier) and 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.

1.2.19 On the assumption that fire authority funding is by way of a separate grant, officers' view is that in a two-tier area either authority should be able to reduce the multiplier and the authorities in question to agree how to share the costs. The consultation makes it clear that new levying powers will only be open to Combined Authority Mayors and as a result, we have not proffered a response to the associated questions.

Accountability and accounting

1.2.20 As proposals for business rates retention develop, the Government will continue to work with councils and others to explore the implications and consequences of the new system in terms of accountability and accounting, and the type of information required from councils as part of the system.

1.2.21 It is important that the arrangements **promote transparency and accountability rather than adding complexity** to the local government finance system.

1.3 Fair Funding Review

1.3.1 There will need to be some system of redistribution between local authorities to balance revenue with relative needs. A system of top-ups and tariffs is used to redistribute funding from those local authorities that collect more in business rates to those who do not collect enough compared to their identified need. Top-ups and tariffs will be fixed for the period between resets.

1.3.2 The Government expects to have a final consultation on the formulae in the Summer of 2018 and crucially the starting point, an authority's **baseline funding level** will not be known until nearer the introduction of 100% business rates retention.

1.3.3 This Council has not faired favourably on previous assessments of relative need and of further (probably greater) concern is reference to 'as central government grants are phased out'. What about New Homes Bonus – is that in the frame?

1.3.4 The new system on needs assessment and redistribution should be fair, transparent and capable of being kept up to date and clearly the simpler the system, the easier it should be to explain and understand. It also needs to recognise particular arrangements that only exist in some authorities, such as internal drainage boards and consideration needs to be given to the balance between statutory and discretionary services.

1.3.5 The problem is whatever the funding formulae it will be seen to be a fair, satisfactory or unsatisfactory representation of relative need depending on the outcome. On that basis the methodology used on the introduction of the current Business Rates Retention scheme using up-to-date data could be as 'good' an option as any other. There is an overarching principle we would wish to put forward and set this out below.

1.3.6 As part of the Local Government Finance Settlement 2016/17 local authorities were provided with indicative figures for both their Settlement Funding Assessment (SFA) and New Homes Bonus (NHB) for the period 2016/17 to 2019/20 which they would, at that time, have taken due regard to for budgeting purposes and financial planning.

1.3.7 Therefore, a principle we would want to see applied is for the baseline funding level to be at least equal to the indicative SFA figure for 2019/20 and if NHB is to be subsumed within the system the sum of the indicative SFA and NHB figures for that year; plus any additional funding as a result of devolution of responsibilities. In this way no council should be any worse off than it had been expecting (and working towards) in the lead up to 100% business rates retention and included in their core spending power calculations.

1.3.8 If this principle is not adopted, the level of funding any one council receives post 2020 could alter significantly for the worse and place financial sustainability at risk where transitional arrangements in the form of damping will be a prerequisite.

1.3.9 Furthermore, to give greater control and flexibility over their finances council tax levels should be a decision for councils and the council tax referendum principles withdrawn.

1.4 Legal Implications

1.4.1 The legislative framework for the billing, collection, recovery and administration of national non-domestic rates (business rates) is set out in the Local Government and Finance Act 1988.

1.4.2 The Local Government Finance Act 2012 and regulations that followed introduced the current Business Rates Retention scheme.

1.5 Financial and Value for Money Considerations

1.5.1 What is as important, and arguably more so, is what will our baseline funding level be on the introduction of 100% business rates retention and how this compares to that reflected in the Medium Term Financial Strategy taking into account transfer of any new responsibilities; and crucially what is to happen to New Homes Bonus. An authority's baseline funding level will not be known until nearer the introduction of 100% business rates retention.

1.5.2 The level of funding any one authority receives in future could alter significantly for the worse and place financial sustainability at risk where transitional arrangements in the form of damping will be a prerequisite.

1.6 Risk Assessment

1.6.1 There is so much uncertainty and volatility that financial planning is becoming increasingly difficult with the increased risk of significant variances compared to projections.

1.6.2 Business rates income volatility and consequent exposure to risk may be greater under 100% business rates retention.

1.6.3 The implications of the level of reserves held to deal with potentially greater income volatility.

1.7 Equality Impact Assessment

1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

1.8.1 Subject to any further comments, Cabinet is are asked to **ENDORSE** and **APPROVE**:

1) The proposed response to the Self-sufficient local government: 100% Business Rates Retention Consultation **[Annex 1]**.

2) The proposed response to the paper, Fair Funding Review: Call for evidence on Needs and Redistribution **[Annex 2]**.

Background papers:

Nil

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