TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

21 June 2017

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Information

1 100% BUSINESS RATES RETENTION

In February 2017, the Department for Communities and Local Government published two papers – Summary of responses and subsequent Government response to the first 100% Business Rates Retention consultation paper published in July 2016; and Further consultation on the design of the reformed system. This report provides an overview of both documents, together with our response to the latest consultation paper.

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. This has since been overtaken by events with the calling of a snap General Election and it is now very unlikely that the aim to introduce 100% Business Rates Retention (BRR) in 2019/20 is to be met.

1.1.2 Alongside the move to 100% BRR 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.

1.1.3 In February 2017, the DCLG published two papers – Summary of responses and subsequent Government response to the first 100% BRR consultation paper published in July 2016; and Further consultation on the design of the reformed system. This report provides an overview of both documents, together with our response to the latest consultation paper.

1.2 Summary of responses and subsequent Government response to the first 100% Business Rates Retention consultation paper published in July 2016

1.2.1 Principles and elements of the current system which are to remain; and issues known about the new system following publication of the above document include:

- Ensuring the system is designed to encourage and reward councils that promote and support economic growth in their areas. The levy on growth will be scrapped under 100% BRR.

- Ensuring a system of redistribution of funding that recognises the needs and demands of different councils through a system of top-ups and tariffs – underpinned by the Fair Funding Review.

- Measures to manage risk within the system, including the improved management of appeals. Appeals following revaluation will be paid for centrally, using a top-slice of business rates income.

- Ability to reduce the business rates tax rate (the multiplier) subject to the principle that the authority taking the decision to reduce the multiplier should bear the costs of doing so.

- Ability for Combined Authority Mayors to levy a supplement on business rates bills to fund new infrastructure projects.

- Protection built into the system (safety net) to insulate authorities from shocks, or significant reductions in income.

- Enterprise Zones continuing to keep 100% in the growth in business rates for a defined period.

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

- The Government will look to build fixed reset periods into the future 100% BRR system and is to explore partial resets and a redetermination of relative need every five years.

- The Government does not intend to explore at this point, localising mandatory business rate reliefs.

- The Government will continue to consider how to refresh the central list and how to provide greater clarity about the businesses that sit on each list, but does not intend at this point to introduce area lists.

- Business Rates Pools will be determined by the Secretary of State. Pool membership could include a number of benefits including Local Growth Zones which would make elements of growth exempt from resets.

- Revenue support grant, rural services delivery grant, public health grant and the GLA transport grant will be funded through 100% BRR. Attendance allowance will not be devolved under 100% BRR. The remaining grants and or new responsibilities to be devolved yet to be determined.

1.2.2 What is still to be decided:

- Tier splits in two tier areas.
- How business rates baselines will be determined.
- The workings behind the £12.5bn figure that government believe is available to be rolled in.
- The level of safety net support.
- What the new nationalised system of appeals will look like and how the transition to a nationalised system of appeals will take place.
- The proposal to remove fire authority funding from the 100% BRR system.
- The technical details that will in large part determine the financial consequences for individual authorities of the move to 100% BRR.

1.2.3 The Summary of responses and subsequent Government response to the first 100% BRR consultation paper published in July 2016 can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/591908/Government_response_to_Self-sufficient_local_government-_100__Business_Rates_Retention_consultation.pdf

1.3 100% Business Rates Retention: Further consultation on the design of the reformed system

1.3.1 This further consultation seeks views on some of the detailed aspects of the design of the reformed system. The consultation also sets out the original timeframe for future announcements including the planned consultation on relative need to inform an authority's baseline funding level, a key part of the jigsaw.

1.3.2 An overview of the issues raised in this latest consultation is given below.

How the system is reset and how frequently it is reset

1.3.3 Support the proposal to build fixed reset periods into the future 100% BRR system. On the subject of a full or partial reset, this latest consultation paper looks at a partial reset and a redetermination of relative need (baseline funding level) every five years.

1.3.4 In responding to the earlier consultation the view at that time was there should be a full reset of the system including all achieved growth as local authorities under the new system will be heavily dependent on business rates income for delivery of core services. As a result a partial reset is supported on the understanding that the growth retained in the system would be net of the amount of growth needed by

those authorities whose funding is below the new baselines. It is acknowledged that the approach does mean the level of growth to be retained would not be known until the reset was undertaken thereby not providing any certainty in terms of medium term financial planning beyond the reset period.

1.3.5 Resetting the needs formula every five years could result in significant changes of income and as such transitional arrangements after a reset could be required. Annual updating of data would allow the system to respond to relative need changes much faster and could lessen the resulting stepped change from periodic updates.

1.3.6 Matters that require clarification – 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, along with the CPI growth in business rates without compensating reductions in other income streams?

1.3.7 As previously further data and modelling is required to better understand the impact of these choices – rewarding growth / redistributing for need.

Business rates pooling

1.3.8 The Government wants to continue to encourage and reward pooling under the 100% BRR. The current approach to pooling allows local authorities to voluntarily come together and propose their own business rate pools. With the removal of the levy the financial incentive to pool is removed. In order to make pooling more attractive, the consultation lists a number of rewards that are to be explored for pools of authorities including the ability for the pool to set their own local growth zone/s.

1.3.9 Through the current Local Government Finance Bill, the Government is broadening the ability of the Secretary of State to designate pools of authorities. The Bill removes the requirement for local authority consent, but introduces a requirement to consult with affected local authorities.

1.3.10 The officers' view is that it should remain up to local areas to decide to join a business rates pool arrangement.

Local Growth Zones

1.3.11 The Government is introducing a new power through the Local Government Finance Bill to allow local authorities that are cooperating and working together as a business rates pool to establish growth areas (within parameters to be set by Government). These zones would allow local authorities to retain growth outside the reset system for a specified number of years.

1.3.12 Further information is required to better understand the likely impact on the total amount of growth in business rates to be redistributed at a partial reset and how

that impact might be managed to make an informed response. Not forgetting the growth needed by those authorities whose funding is below the new baselines.

Managing the impact of successful appeals

1.3.13 Managing the impact of successful business rates appeals is particularly important given the impact that this can have on an authority's available resources. The Government's intention under 100% BRR is to continue to help manage the risk and income volatility associated with appeals, but to better direct this support to where losses are experienced. To do this, the Local Government Finance Bill includes a provision for loss payments funded by way of a top-slice to the total England-wide amount of business rates income.

1.3.14 The Government's intention to make direct payments to local authorities to recompense for loss of income resulting from changes to rating lists relating to 'valuation errors' (successful change of status, e.g. schools becoming academies assume is not covered as the rateable value remains the same) is seen as a positive step. This change should see a reduction in business rates volatility both in terms of successful appeals reducing income and the removal of the estimated appeals' provisions that, for good reasons, are often incorrect.

1.3.15 The detail about how loss payments are calculated and made will be set out in further proposals.

Tier Splits

1.3.16 The Government intends to continue to set tier splits, i.e. the percentage of business rates income that each tier of authority would get to help manage the level of risk and reward open to councils in multi-tier areas.

1.3.17 As noted in the response to the earlier consultation the approach to tier splits will need to take into account the services (including any new responsibilities) 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, resilience/ability to manage risk and incentive to grow their business rates base. Also, the level at which the safety net threshold is set.

1.3.18 Again, further data and modelling is required to better understand the impact of the different options.

Safety Net

1.3.19 The Government continues to recognise the ongoing need for a safety net under 100% BRR. The safety net is expected to be funded by way of a top-slice to the total England-wide amount of business rates income.

1.3.20 A safety net is required to support those local authorities that experience shocks to the system such as the closure of a major ratepayer which reduces their

income and affects their ability to deliver services. The Government expects to raise the current safety net threshold of 92.5% to reflect the increased proportion of funding at stake and is to trial a safety net threshold of 97% of baseline funding level in the pilots for 2017/18.

1.3.21 In responding to the earlier consultation it was suggested the safety net be set at the baseline funding level as this is a measure of need and is more often than not used for budgeting purposes and as such should aid financial planning. In this respect welcome the intention at the very least to raise the current threshold. As with other aspects of the new BRR system, the safety net threshold to be informed by the impact of different options on a local authority's exposure to risk, resilience/ability to manage risk and incentive to grow their business rates base.

1.3.22 Again, further data and modelling is required to better understand the impact of the different options.

Central List

1.3.23 Ahead of the introduction of 100% BRR the Government intends to set out a clear statement of policy for which properties and ratepayers should be assessed on the central list.

1.3.24 To provide stability and certainty for local government in terms of whether hereditaments should be assessed on the central list or local rating lists is a prerequisite to the introduction of 100% BRR.

Summary

1.3.25 We remain clear that councils must first and foremost be able to use extra business rates income to address existing funding pressures before any additional responsibilities are considered.

Decisions on additional responsibilities transferred to councils, tier splits and the safety net threshold and subsequent impact are not mutually exclusive and it is, therefore, difficult to make an informed response in isolation, notwithstanding an authority's baseline funding level.

1.3.26 The consultation paper can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592368/100__Business_Rates_Retention_-_Further_Consultation.pdf

1.3.27 The return date for responses to the consultation was 3 May 2017. A copy of the response agreed with the Cabinet Member for Finance, Innovation and Property and the Chairman of this Advisory Board can be found at **[Annex 1]**.

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 A key part of the jigsaw is what will the Council's baseline funding level be and how does this compares to that reflected in the Medium Term Financial Strategy taking into account transfer of any new responsibilities?

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

1.5.3 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; and the consequent implications on the level of reserves held to deal with potentially greater income volatility.

Background papers: contact: Neil Lawley

Nil

Sharon Shelton
Director of Finance and Transformation