DISTRICT COUNCILS' NETWORK
Innovative and collaborative solutions for people and places

District Councils' Network response to the 100 % Business Rates Retention Further consultation on the design of the reformed scheme

About the District Councils' Network

The District Councils' Network (DCN) is a cross-party member led network of 200 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the Local Government Association

District councils in England deliver 86 out of 137 essential local government services to nearly 22 million people - 40% of the population - and cover 68% of the country.

General Comments

DCN has been working jointly with the County Councils Network (CCN) and the Rural Services Network (RSN) in relation to the wider principles that should exist in relation to local government finance in its totality and in relation to the new system of business rates retention. A joint statement and a set of principles document was published on 8th September 2016. We will continue to work collaboratively with CCN and RSN on issues arising from this consultation. We aim to reach agreement with the CCN on the tier split in shire county areas, as it is preferable that the sector should design a solution to that issue rather than have one imposed by the Government.

We re-iterate that the final design of the 100% business retention scheme must be as simple and transparent as possible.

It is very important that the balance between incentivising growth and meeting needs is determined properly. If the baselines are determined properly at the outset, then the system must be developed to reward properly local authorities that generate economic growth. It must also ensure that those local authorities continue to benefit from a significant proportion of the increase in business rates income into the long term (i.e. beyond partial resets) whilst facilitating the redistribution of some income to re-dress need. The Government should not confuse the two issues of 'need' and 'incentive' – whilst there will inevitably be an element of striking the right balance between the two, the principle of having a system that properly incentivises economic growth should do just that. If the Government wants a 'powerful' incentive element for growth in the system, then the system must have some kind of ongoing incentive built-in that extends beyond resets. If this is absent then the incentive will be ineffective and could run the risk of distorting economic growth at a local level. The incentive needs to be strong enough to influence behaviour positively and will therefore help increase the size of the business rates funding pot over time.

The recent NAO report 'Planning for 100% local retention of business rates' recognises the potential risks in the design and implementation of this new scheme:
'*There are risks in designing and implementing the 100% scheme. These include short-term risks whereby failing to deliver the scheme on time or to provide the sector with enough information in advance could undermine local financial planning. There are also more*

significant long-term risks whereby poor planning and design could deliver a scheme that puts local authorities' financial sustainability at risk or fails to create a mechanism that delivers local economic growth'.

The DCLG has been very clear that the impact of the new system overall must be fiscally neutral for the Government. The DCN would like to make the point in the strongest possible terms that the transfer of any new responsibilities must not only be fiscally neutral to each local authority at the point of transfer, but must also remain fiscally neutral in the medium to long term. The recent NAO report 'Planning for 100% local retention of business rates' also comments on this issue:
'*The challenge facing the Department is to assure itself that the absolute level of funding in the system at the start of the 100% scheme is enough to address both current service pressures and the additional demand to come'*.
With a recommendation from the report that the DCLG should:
'Review unfunded service pressures within the sector to seek assurance that sufficient absolute funding to meet statutory responsibilities will be available at the start of the 100% system. Depending on the timing of the next Spending Review, this may require action outside of the formal Spending Review cycle'.

The DCN continue to support 100% retention of business rates and are very committed to this. The proposed start date of April 2019 for the new 100% business retention scheme means there is a tight timescale to design and implement the scheme. Sufficient time should be allowed for the scheme to be designed well, leaving time for implementation on top. There is a risk that if timing slips the scheme could be put in place before the design stage is fully completed, leading to a poorly designed scheme that does not deliver its intended outcomes and which local authorities would have to manage in the longer term. In addition local authorities need sufficient time to plan for the implementation of the new scheme, so announcements must be made early.
The conclusion of the recent NAO report 'Planning for 100% local retention of business rates' states:
'The Department faces a significant challenge in implementing 100% local retention of business rates by 2019-20, a process complicated by the simultaneous delivery of a fair funding review'…….. 'The Department has made progress in delivering the 100% scheme but, given the scale of the challenges ahead and the limited resources available, there are clear risks to delivery. Government projects such as this are prone to over-optimism, and the Department needs to avoid this. The Department needs to ensure that the design is not compromised by the pressure to deliver to a tight timetable. The Department must also assure itself that, in meeting the scheme's objective of promoting self-sufficiency, the sector's financial sustainability is not put at risk. It must ensure that the level of funding in the system at the start is sufficient to meet the sector's needs. Greater focus is also needed on ensuring that the scheme is configured to maximise economic growth rather than simply tax base growth'.

The DCLG needs to address the recommendations in the NAO report if there is to be confidence that whole system change can be implemented successfully for 2019. The changes cannot be implemented in parts, and key decisions and information must be available well before April 2019. We would suggest that councils should have complete and final information on the new system as it affects them no later than the autumn of 2018.

The DCN seek clarity from DCLG on the implications to year four of the multi-year settlement (2019-20) if the 100% business rates retention scheme begins in April 2019. Will there be transitional support and how will this then work into the scheme from 2020-21?

The fair funding review will be in place for day one of the new 100% business rates retention scheme. The DCN is concerned that insufficient time has been allowed to complete this fair funding review to the required level. The fair funding review is one of the most fundamental reviews of local government funding for many years and there is a significant risk that it will not be completed in time, which could lead to a ‘half baked’ formula put in place, which will not address the needs of local authorities. There is work being carried out in this area by the Societies of District and County Treasurers and we would urge the DCLG to work closely with organisations such as ourselves, CCN, RSN, SDT, SCT and local authorities to formulate a fit for purpose fair funding review.

The trend of local authority income versus spend shows an increasing divergence over the medium term for the majority of councils. Therefore the fair funding review needs to fundamentally review the cost drivers for all councils and take account of differing needs in rural areas and not simply follow the existing or historic formula, which are out of date and do not reflect current or forecast need.

The DCN welcomes the opportunity for councils to apply to pilot the new scheme from April 2018 as this will provide an opportunity to pilot in shire county areas, which has not been the case to date. However we would question whether there is sufficient time for those pilots to influence the future design of the scheme as the new scheme is due to start in April 2019, leaving insufficient time to learn from the pilots and feed into the design of the new scheme.

The timing of setting the business rates baseline is key as there is the potential to lose all growth which has already been achieved because the 100% business rates retention scheme coincides with the reset. This removes all incentive in the short term for local authorities to achieve growth.

The new scheme must complement areas with existing Enterprise Zones (EZ). Where most, if not all, of the growth in an area is within the EZ, the new scheme will need to consider how to best deal with this. In addition we would also support a change in the way EZ relief is applied; we support applying the EZ relief before other mandatory reliefs, thus providing more funding into the EZ and local LEP which further benefits the area.

Question 1: What are your views on the proposed approach to partial resets?
It is encouraging that DCLG have recognised that needs of authorities change quickly and are therefore proposing a reassessment frequently and are designing a scheme which will do this. The DCN is of the opinion that five years seems a reasonable period for the reset. As the frequency of resets does not require legislation, we would like clarity from DCLG that there is the ability to change the reset period if the need arises, otherwise there is a risk that the reset will remain at five years even if this does not prove the right frequency.

We are supportive of the principle of transitional arrangements, which should be set at an appropriate length of time to protect authorities from significant changes and also reflect changes to income levels within the transitional period, whilst still providing an incentive for growth. Transitional arrangements should unwind within a reset period so that a council experiences its “true” position before the next reset occurs.

The DCN believes that:

- growth in the new system should be retained by local authorities and not used to fund new responsibilities
- growth from renewable energy schemes, which is currently retained 100% by the planning authority, should be retained in full by that authority both at the point of resets and at the start of the new 100% retention scheme in 2019
- CPI growth in business rates should be retained by authorities without compensating reductions in other income streams.

Question 2: What are your views on how we should measure growth in business rates income over a reset period?
It is difficult to answer this question without some modelling of values from DCLG. However as general principles, the measure of growth needs to accurately take account of a number of factors including:

- impact of inflation through the multiplier increase annually (i.e. allowing authorities to retain this increase outside of measuring growth)
- number of years over which the growth is measured (using averages may result in a smoother effect for local authorities);
- the impact of localised impact of significant rated properties;
- while DCN believes all reliefs should be decided by councils, the impact of any national reliefs that are not controlled locally, e.g. small business rate relief, retail relief;
- Need to separate out EZ growth/ system needs to allow for the timing of the reliefs ending and resets;
- Impact of the appeals and significant delays in the outcome of appeals;
- The amount of growth retained needs to be carefully considered and the impact on future decisions around local investment in growth needs to allow for the certainty of income.

Question 3: What are your views on the Government's plans for pooling and local growth zones under the 100% Business Rates Retention system?
The reference in the consultation to the Secretary of State having the ability to force pools to form takes the responsibility away from the local areas. It is seen as a top down 'enforcing' as opposed to considering local agreement around the local economic and financial benefits of local pools. The DCN does not support this approach as it undermines local decision making and asks that this provision is removed from the Local Government Finance Bill. The new scheme should allow local areas the flexibility to form pools which include the most appropriate boundaries for their locality.

If the Secretary of State's power remains in the Bill, it is important that DCLG gives a clear and early indication of how he intends to use it – so that councils do not waste time designing pooling arrangements that will not be approved and instead focus discussions on pooling options that will not prompt the Secretary of State's intervention.

As the levy payment will not be part of the new system, clarification on how the treatment of the top ups and tariffs will operate in a pool post 100% retention would need to be provided, in order to fully understand the benefit of a pool.

Paragraph 2.24 of the consultation refers to 'The option of retaining additional growth in business rates income through a reset of the wider system'. This suggests that councils outside of pool arrangements would be seen to be 'subsidising' the pool arrangements, in line with the overall cost neutrality of the scheme. Clarity is requested from DCLG on this point as this subsidy would not be fair for areas where a pool is not considered advantageous.

If a pool contained a greater number of safety net authorities, this presents a greater risk at local levels and works against the intention of incentivising growth, leading to fewer pools.

The plans for pooling and local growth will need to take into account and/or complement the current EZ areas.

The DCN support the general principle of growth zones and would support these being available outside of pool areas. Paragraph 2.30 of the consultation outlines specific

parameters in relation to the establishment of each local growth zone. Whilst the principle of the parameters seems sound, the DCLG need to ensure that the parameters are not too prescriptive as there is a risk that this will erode the incentives that the scheme is aiming to achieve.
It is likely that growth zones will not provide sufficient growth in financial terms for local authorities to move away from seeking other investment funding. However, other social and economic factors and outcomes of growth zones need to be considered, for example employment both new and retained, the links to local demand for services such as housing provision. These 'softer' outcomes can provide financial savings to central Government in areas such as housing benefits, job seekers allowance, etc. Therefore the DCLG should recognise these secondary benefits that growth zones could provide.

Question 4: How can we best approach moving to a centrally managed appeals risk system?
Initially Government need to address the current significant delays with VOA decisions. Improved and more timely decisions on appeals would make a significant impact on the current level of appeals which could potentially release unnecessary provisions back into the retention system.

The principle of a centrally managed appeals risk system and the loss payment is supported by DCN, but this is a reactive approach to 'valuation errors' as opposed to a proactive/preventative measure to avoid or minimise errors. The issue around 'valuation errors' needs to be solved initially which would then remove the significant requirement for 'loss payments', thus leading to more financial resource being available within the overall system.

The cost of appeals which are backdated to before the start of the scheme and which would have been funded centrally under 50% retention should be funded separately from the new proposed scheme.

We would urge the DCLG to consider the approach to appeals and relief challenges nationally (for example the current application for charitable relief by some NHS trusts). External companies will be the financial winners from these appeals, but the impact on Government funding as a whole is simply the un-necessary movement of funds from one Government area to another. Instances where money is simply passed from one public sector to another in relation to business rates should be minimised or eradicated, with local government fully compensated for this.

Question 5: What should our approach be to tier splits?
The DCN, CCN and RSN have previously met as a group to discuss this question and we will continue to work with each other and other bodies to agree an approach that reflects the needs of all councils. However our view remains that we cannot set these tier split levels until we are clear on how the new scheme will work overall.

There is insufficient information currently on the final design of the scheme to be able to give a definitive answer to this question. This should not be decided until the scheme is sufficiently developed as local authorities need to understand all the other factors, such as safety net levels, tariffs and top ups and transfers of responsibilities.

We are supportive of the 100% retention pilot schemes which have been offered to all authorities for 2018-19 and it is important that we learn from these pilots. However we believe that the tier splits used in any pilots should **not** automatically become the basis for the new scheme as there will be insufficient time to learn from the pilots and influence the future design of the scheme.

We will continue to work with the CCN to agree a national approach for tier splits for incorporation in the scheme. However in the spirit of localism, the DCN believes that councils should have the ability to agree tier splits on a local basis, with the default national approach applying where local agreement cannot be reached or there is no desire to enter into local discussions.

We appreciate that further work is promised by DCLG but the question of tier splits would be greatly simplified if fire and rescue authorities were excluded from being funded by business rates altogether, reflecting the fact that they make little direct contribution to economic growth and to mimic the arrangements that have been put in place for the police. Fire and police are both under the jurisdiction of the Home Office, and legislation has been passed to permit police and crime commissioners to take over fire and rescue authorities: this demonstrates further why it would be sensible to align the funding arrangements for police and fire.

Question 6: What are your views on proposals for a future safety net under the 100% Business Rates Retention system?
We support the continuation of the safety net and look forward to the results of the 97% level which is being trialled in 2017-18. Whilst this level is more generous than the current level, it would provide greater protection around fluctuations bearing in mind that this will be the main Government funding stream, incorporating areas such as RSG. In addition, as baselines are likely to be higher under the new scheme (as a result of the centrally managed appeals), it becomes easier for authorities to fall below the baseline. As the 100% rates retention system will be providing a further shift in risk of funding to local authorities the safety net needs to be increased to reflect this risk and therefore the level needs to be increased above the current position and as a minimum to that used in the trial of 97%. Consideration should be given to the links of the safety net and the transitional arrangements, as a realistic safety net level would reduce the need for transitional support, leading to a simpler scheme.

DCLG need to consider what mechanism needs to be put in place to allow any redistribution of overprovision of the top slicing to fund the safety net. In the same way, if there is an under provision, the system will need to have a mechanism to adjust for this.

Question 7: What are your views on our proposals for the central list?
There will be differing views about preferences for properties moving to the central list and these views will depend on local issues. We agree that the Central List should only include property which is genuinely non-local.

It is important that any moves between central and local lists should be done at the start of the system when the baseline is set so they do not have an impact on authorities either before or after further rates retention has been introduced. The scheme must ensure that adverse impacts are compensated elsewhere in the scheme post 2019-20. Where properties are moving from local lists to central lists, local authorities will need their baselines adjusted to reflect this (rather than the protection of the safety net).

We would seek further clarification in the detailed consultation on this subject.