



Business Rates Retention Consultation
Local Government Finance
Department for Communities & Local Govt.
2nd Floor, Fry Building
2 Marsham Street
LONDON SW1P 4DF

26 September 2016

Self-sufficient local government: 100% business rates retention

Cornwall Council welcomes the opportunity to submit a response and contribute to the above consultation.

We also acknowledge the collaborative work the Council and Government have embarked upon in introducing a business rate pilot for Cornwall, and look forward to ratifying this for operation from April 2017, and then progressing further options to help tackle the issue of business growth in rural areas as part of a sustainable local government funding system.

Our responses to the specific consultation questions are detailed below. Where considered appropriate, a single response has been given to a group of questions.

Question 1: Which of these identified grants / responsibilities do you think are the best candidates to be funded from retained business rates?
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Cornwall Council is keen to ensure that it is well placed to take full advantage of the potential benefits of the shift to 100% business rate retention and feel it is important that there is a link between the new responsibilities and economic growth, such as skills and transport.

This, together with genuine discretion over how services are provided, will help the Council shape the services we offer the residents of Cornwall.

The Council does not wish to see a simple transfer of services funded from specific grant to being funded via business rates but instead considers that a true transfer of responsibilities with the discretion to shape the services to suit our residents is required. Local Government should not simply become the new administrators of grants without the ability to alter the eligibility criteria, for example the Independent Living Fund and the Attendance Allowance.

The list of options identified within the consultation are all grants that already go (or will go) to local authorities. Whilst Cornwall Council does not disagree that transferring these grants (and would support the 'roll in' of RSG, Rural Services Delivery grant and Public Health), this will result in local authorities having no more or less control over services; instead the stability and predictability of the funding will be dependent on the health of the local economy.

It is of overriding importance that the transfer of new burdens does not increase the financial risk to local government. We would not support transfers where local government could not control the demand for the service or the delivery criteria.

Importantly, and if the process is to maintain any sense of integrity, Cornwall Council considers it imperative that:

- i. having agreed grants with potential for transfer, that no further Government cuts are imposed in those areas (i.e. beyond the allocations determined on the last Spending Review) in the run up to 100% rate retention. The Council would not wish to see a repeat of localised Council Tax Support where, on transfer, additional cuts were imposed on local government.
- ii. Government avoids the temptation to transfer demand led budgets purely as a means of capping or transferring demand-led pressures.

Question 2: Are there other grants / responsibilities that you consider should be devolved instead of or alongside those identified above?

As mentioned above, Cornwall Council would like to gain responsibility and control of services in areas such as skills, economic growth and infrastructure. The Government, by including the Greater London Authority Transport Grant, has set a precedent that that capital funding can be considered and therefore we consider that the Highways Maintenance and Integrated Transport Block should also be considered.

Further, and linked to the Council's existing bus franchising aspirations as agreed in its ratified devolution deal, we would also support the inclusion of the bus services operator grant.

These are services that the Council is already discussing with the Department as part of the 100% pilot, which is being negotiated for 2017-18.

Importantly, in transferring responsibilities, this should not preclude the sector from further additional funding from central government at a later time.

Question 3: Do you have any views on the range of associated budgets that could be pooled at the Combined Authority level?

Question 4: Do you have views on whether some or all of the commitments in existing and future deals could be funded through retained business rates?

Cornwall Council strongly opposes models that favours or offers wider devolution opportunities to combined authority areas or those areas with an elected mayor; it is important that the revised system is fair, transparent and should provide the same flexibilities to local authorities regardless of local governance arrangements.

Whilst the system could cope with a mixed approach to devolution (where services are devolved in some areas but not others), this is likely to lead to a more complicated local government funding model where funding arrangements differ between devolution and non-devolution areas. It is also unclear how this would be managed to

then accommodate devolution deals that come on line post implementation - it is conceivable that this would lead to a situation where a) some devolution deals are funded from business rate retention whilst others are funded by grant and/or b) an element of business rate resource would be held back for completion of 'pipeline' deals and would mean 100% business rate retention would not be possible on initial implementation. This is far from ideal and, if this is considered a viable option, then Cornwall Council believes the Government should bring forward a clear criteria to justify why different regions have different devolution packages.

There are a number of "points of principle" that Cornwall Council would like to make:

- i. services devolved through devolution deals should not impact on the quantum available to the rest of local government. The appetite of combined authorities or those areas with an elected mayor should not result directly in less services being devolved in other areas.
- ii. Each funding stream within deals should be considered in its own right to see if it met the criteria for a responsibility to be devolved. It is not appropriate that devolution deals should not be subject to the same criteria restrictions that will govern wider universal devolution plans
- iii. The opportunity to improve the services offered to your residents should not be determined by an authority's governance arrangements.
- iv. Only ongoing services should be funded from retained rates.

Cornwall Council believes it is wrong to examine this issue from a maximum quantum perspective. Instead it would be more appropriate to identify the maximum number of new services devolved to areas that want to take them on and, if that totals more than the business rate quantum (currently estimated to be £12.5bn) then the difference should be funded through grant. There is no rational reason that the quantum figure should be the constraining figure of any consideration of service devolution.

Question 5: Do you agree that we should continue with the new burdens doctrine post- 2020?

Yes; the new burdens doctrine ensures that newly transferred responsibilities are fully funded and offers increased transparency between central and local government.

Cornwall Council would not wish to see the devolution of new services delayed until a reset - nor is it acceptable that local government bears the risk of becoming unsustainable through insufficient funding arising as a consequence of service transfers and/or additional government imposed responsibilities.

Depending on the decision made about the length of time between resets, Cornwall Council also considers that the new burdens doctrine should be extended to ensure adequate funding is provided not only at the time of transfer but also for the projected future costs of any new responsibilities.

Unfortunately, in practice the new burdens doctrine has not been rigorously applied and the Council seeks assurance from the Government that, going forward, it will not just continue but will be properly applied in the future.

Question 6: Do you agree that we should fix reset periods for the system?

Question 7: What is the right balance in the system between rewarding growth and redistributing to meet changing need?

Question 8: Having regard to the balance between rewarding growth and protecting authorities with declining resources, how would you like to see a partial reset work?

Cornwall Council strongly urges the department to only offer the certainty of fixed reset periods if they feel it is realistic. Since the introduction of business rate retention in April 2013 the sector has faced considerable uncertainty as a result of delayed revaluation, the possibility that future revaluations may be more frequent, the suggestion that appeals will be treated differently, the notion of self-assessment with regard to business rates and now the promise of a new needs assessment. The value of offering certainty is strongly diminished if either side feels the offer is unrealistic.

The frequency and depth of system 'reset' will determine the extent to which growth is redistributed across the sector and will likely polarise opinion dependent on each authority's confidence that local business rates growth will exceed demand. Authorities with below-average growth will naturally prefer more frequent and deeper resets whilst those with above-average growth will be looking for less frequent resets so that they can retain for longer the growth in business rates that has been generated.

Cornwall Council is keen to ensure that the new system increases the rewards and incentives for growth and feels that, if an authority works to secure growth, then they should be able to keep some of it. However, in practical terms, it is also important to ensure the system is fair, shares risk and protects authorities from business rate volatility and shocks.

This is especially relevant in rural areas, like Cornwall, where growth is less strong than our urban counterparts and more significantly impacted by the range of reliefs, most of which are determined under central government legislation. As a result, rural authorities shoulder an unfair burden of the cost of national reliefs and Cornwall Council believes that central government should review the way reliefs are applied in the retained rates system such that the burden is more equitable - shared between local authorities and central government, not just on implementation but for proportionate changes in the level of reliefs thereafter.

Growth incentives should provide equal benefits, in terms of spending power, in rural areas as they would in urban areas – especially given the intended abolishment of levies (without consultation) which will have a significant impact on the operation. Cornwall Council does not support the decision to abolish the levy when the 100% retention system is introduced later in this parliament. Our concern is that this would allow some authorities with large and growing rate-bases to retain unlimited financial rewards that are both unfair compared to the rest of the country, and in the context

of the safety net (currently set at 92.5% of the Funding Baseline Level). Rewards from the system should be subject to a levy, at least above a certain threshold, and could be used to fund the safety net avoiding an unnecessary 'topslice' from the overall business rate quantum.

To ensure the imbalance between authorities is checked therefore, we recognise that a system of regular resets to the system is required; of the options considered, Cornwall Council considers that a partial reset of the system on a frequent basis, though the most complicated, would offer the most appropriate balance between risk and reward, where a proportion of growth would be included in the reset and a proportion would remain with the authority for the long term and could be used with certainty for long-term investment plans. We also consider that a greater level of protection should be offered by incorporating at the same time an element of needs assessment, specifically for demand-led services such as adult and children's social care.

Inevitably the answer to this question will depend on and influence by many factors - none of which are known currently including:

- what a reset looks like and how much, if any, previous growth can be retained
- what new services will be devolved
- what the needs assessment and new burdens' assessment will look like as well as assurances about how funding and needs will be aligned in future years
- what protection will be offered by the safety net
- how frequent revaluations will be after 2017; and
- whether appeals will continue to be a local issue of whether a national solution can be found.

Once local authorities know all this then it will be easier to come to a considered opinion on the frequency of resets and the most appropriate balance between rewarding growth and funding demand. Most certainly, business rate growth should be retained within the sector overall and should not be used by the government as an opportunity to roll in more responsibilities to the Settlement Funding Assessment.

Question 9: Is the current system of tariffs and top-ups the right one for redistribution between local authorities?

Cornwall Council acknowledges that some form of redistribution is inevitable to equalise the very significant variations in needs and resources across the country and considers that the current system of tariffs and top-ups offers a simple and transparent mechanism **provided the needs assessment is robust and fair.**

It is important to ensure that, going forward, tariffs and top ups remain index linked to the annual business rates multiplier between resets to maintain their future value in real terms.

Question 10: Should we continue to adjust retained incomes for individual local authorities to cancel out the effect of future revaluations?

Since the introduction of the current rates retention scheme, local government has still not had a revaluation nor have we had a detailed explanation of what will happen at a revaluation. It is therefore difficult to quantify the turbulence and shifts that

might occur at revaluation (for example the impact on appeals) and it is not yet clear how growth attributable to the actions of the local authority will be protected.

The explanation in the consultation paper implies that it is possible to adjust the system at a given date in time to cancel out the effect of future revaluations. In principle it makes sense to adjust tariffs and top-ups following a revaluation to take account of changes in local yield and ensure that, overall, no authority gains or loses directly from revaluation; however, until we have further clarity, Cornwall Council cannot provide a comprehensive answer to this question.

At each previous revaluation, there has been transitional relief to phase in larger increases in rateable values – this is a sensible approach allowing businesses time to adjust. If it is indeed the Government's intention to put in place a form of transitional arrangements, then Cornwall Council would also like to see clarification of how that will be funded under 100% business rate retention as it should not be at the detriment of local government funding levels.

Question 11: Should Mayoral Combined Authority areas have the opportunity to be given additional powers and incentives, as set out above?

This consultation is about the mechanics of achieving 100% business rates retention. Cornwall Council strongly opposes models that favours or offers wider devolution opportunities to combined authority areas or those areas with an elected mayor; it is important that the revised system is fair, transparent and should provide the same flexibilities to local authorities regardless of local governance arrangements.

Cornwall Council believes that these powers and incentives should be available in all areas, with or without a directly elected mayor; the decision for which should be made by local people and without bias.

Question 12: What has your experience been of the tier splits under the current 50% rates retention scheme? What changes would you want to see under 100% rates retention system?

Cornwall Council, as a single tier authority (with fire responsibilities) currently retains all the 50% share of local business rates and, as such, is not subject to the distributive challenges faced by authorities in two-tier areas.

However, the Council agrees that the issue of tier splits will need to be considered once the services to be devolved are decided upon and that there must be consideration of the balance between risk and reward.

The existing balance is very much been towards district councils in two-tier areas, and this is likely to cause problems where the rate base is significantly larger than the budget of the district authority concerned. This requires significant top-ups and tariffs to equalise the difference between rates and needs and arguably represents an imbalance of risk, with smaller authorities being asked to shoulder the risk of variations in large rate bases.

Question 13: Do you consider that fire funding should be removed from the business rates retention scheme and what might be the advantages and disadvantages of this approach?

With the recent initiative to improve links between “blue light services” Cornwall Council understands the rationale for a desire to move funding for fire from DCLG to the Home Office.

However, whilst those fire authorities that already exist as a stand-alone body may find this proposed transfer a simple administrative one, for those authorities (like Cornwall) with existing fire responsibilities this will be far less straightforward.

The functions of the fire service are completely embedded within the operation of the wider authority, impacting on local governance arrangements, service delivery and local council taxation policy. And though perception may be that there is very little link between business rates and the functions of fire authorities, in reality this belies the very significant investment fire services have made building and developing relationships in support of local businesses.

Cornwall Council would require further details and assurance about precisely how the fire and rescue service would be extricated before supporting such a transfer.

Question 14: What are your views on how we could further incentivise growth under a 100% retention scheme? Are there additional incentives for growth that we should consider?

Cornwall Council agrees that any income above existing baselines in Enterprise Zones and designated area should be disregarded in the design and implementation of the new scheme to ensure local government continues to benefit from the long term (25 year) growth in this regard as initially outlined.

However, greater clarity on the *default* 100% business rates retention model is required before the Council is able to comment on whether additional incentives are needed.

Cornwall Council, as a rural area, tends to see a much greater share of its business rate growth lost through mandatory reliefs including Small Business Rate Relief than our more urban counterparts. Going forward, beyond implementation, this is likely to put rural authorities like Cornwall at a significant disadvantage and we would like to see this addressed in the new design, either by putting in place a mechanism such that the change in mandatory reliefs is better shared between local and central government and/or greater control is passed to local government over the eligibility criteria for mandatory reliefs.

By giving local authorities a greater role in decisions over reliefs in their local areas, they can better control them to suit the local economy and businesses e.g. more local flexibility/discretion over charitable relief, empty property relief, small business rate relief. This would enable authorities to intervene more effectively in order to create

local growth and jobs. Cornwall Council very much sees this as the next phase of any ratified rural pilot, and would welcome working collaboratively with the Government to explore options around a potential mechanism.

Question 15: Would it be helpful to move some of the 'riskier' hereditaments off local lists? If so, what type of hereditaments should be moved?

Again, Cornwall Council is not able to provide a comprehensive answer to this question until greater clarity is provided about the criteria for a hereditament to appear on the central list.

Moving to 100% retention will increase the risks and volatility to which authorities are exposed for example as a result of appeals or large business closure. Risk profiles vary significantly from authority to authority and, whilst the proposed safety net will provide a degree of protection, Cornwall Council agrees that it makes sense to also review as part of this process the criteria for a hereditament to appear on the central list a) to ensure the criteria is consistently applied and b) to remove risk from local government where some types of businesses are better suited to the central list rather than local lists e.g. power stations, oil refineries.

However, it should also be recognised that a business' viability and/or location is often affected or indeed driven by national government policy and this should not be to the detriment of local residents – we would therefore support a mechanism that offers compensation for residents affected where this cannot be achieved through business rate retention.

Importantly, it is imperative that authorities are appropriately compensated for transfers between the local and central listing through an adjustment to their baseline figures (and therefore tariff or top up), not just on implementation of 100% Business Rate Retention but going forward thereafter.

Question 16: Would you support the idea of introducing area level lists in Combined Authority areas? If so, what type of properties could sit on these lists, and how should income be used? Could this approach work for other authorities?

Cornwall Council believes this should be decided by individual Combined Authority areas i.e. decisions made at the local level for those authorities concerned.

Question 17: At what level should risk associated with successful business rates appeals be managed? Do you have a preference for local, area (including Combined Authority), or national level (across all local authorities) management as set out in the options above?

Under the current 50% rates retention scheme, local authorities must make prudent provision for the likely impact of local business rate appeals. Given the significant risk and volatility this represents to local government funding levels, it is very likely that the combined national set aside for appeals is greater than will actually be required to meet the cost of appeals – resources that could be better used delivering local services.

Cornwall Council would therefore support a system which a) shares appeal risk at the national level and b) protects local government funding levels by making a necessary adjustment to local authority baseline figures.

Question 18: What would help your local authority better manage risks associated with successful business rates appeals?

Greater and more timely information and intelligence sharing between the Valuation Office Agency (VOA) and local government would help authorities to assess the likelihood of successful appeals.

The interaction with the safety net should also be reviewed to ensure local authorities are adequately and fairly protected from significant business rate volatility but cannot manipulate the system to unfairly gain financial rewards.

Question 19: Would pooling risk, including a pool-area safety net, be attractive to local authorities?

Question 20: What level of income protection should a system aim to provide? Should this be nationally set, or defined at area levels?

Whilst Cornwall Council supports the continuation of a safety net to protect authorities from large reductions in business rates, it is not able to provide a more comprehensive answer to this question until greater clarity is provided about the services that local government will be expected to deliver under 100% business rate retention, the treatment of appeals and their funding, and the design of the new system especially regarding the frequency and form of system 'resets'.

The disadvantage of an area-based safety net is that it is only triggered if rates reduce across the whole area. Under the current system, many authorities who have chosen to pool have discovered – to their cost due to the way the safety net operated – that sharing risk does not result in reducing risk, but simply widens the financial base over which losses are covered.

To be successful, this would most likely require a general move to operating at an area level. Cornwall Council believes the decision to form business rate pools should remain a local discretion and would not therefore support any mandatory transition to pool risk, including a pool-area safety net.

Question 21: What are your views on which authority should be able to reduce the multiplier and how the costs should be met?

Cornwall Council believes the decision to reduce the multiplier should be made by the authority (or authorities) where the costs fall.

In single tier authorities like Cornwall that is very simple; however this is likely to be more problematic in two tier areas where the decision, and cost, will affect more than the billing authority and the decision must be made jointly. This may also cause

uncertainty in terms of where responsibility sits across layers of local government with regard to economic development - potentially district councils, county councils and combined authorities could all have a different role to play in economic development, and each might want to influence changes in the multiplier (and specific reliefs).

Cornwall Council also calls on the Government to extend the powers offered to Combined Authority Mayors to levy a supplement on business rates bills to fund new infrastructure projects. The intention is that these powers will give local authorities the ability to tailor the business rates regime to fit their local economic environment and it is important that the revised system is fair, transparent and provides the same flexibilities to local authorities regardless of local governance arrangements.

Question 22: What are your views on the interaction between the power to reduce the multiplier and the local discount powers?

It is suggested that new powers to make an across the board 'structural' reduction in the multiplier will enable authorities to better support local businesses and/or attract new ones.

Unfortunately this feels like a rather 'blunt tool' and, given the likely cost, is unlikely to be widely applied given existing financial constraints.

The Localism Act already allows local authorities to offer discretionary discounts at targeted ratepayers and, arguably, offers a more effective mechanism for developing and supporting the local economy.

Cornwall Council's preference therefore is for greater freedoms to change the eligibility for other reliefs and discounts.

Question 23: What are your views on increasing the multiplier after a reduction?

Cornwall Council strongly believes that local authorities should be free to control subsequent increases in the multiplier without capping constraints (up to the national limit). This would otherwise limit an authority's ability to balance its finances in future years and would serve as a deterrent against reducing the multiplier in the first place.

Question 24: Do you have views on the above issues or on any other aspects of the power to reduce the multiplier?

As with all other freedoms and responsibilities, new powers should be granted to all local authorities, regardless of whether they are in a combined authority or have an elected mayor.

Question 25: What are your views on what flexibility levying authorities should have to set a rateable value threshold for the levy?

Cornwall Council believes new powers should be extended to all authorities, regardless of local governance arrangements, and that thresholds for setting a levy should be decided locally.

The Council also supports proposals that require the prior engagement of the relevant Local Enterprise Partnership in decision making.

Question 26: What are your views on how the infrastructure levy should interact with existing BRS powers?

The Business Rate Supplement Act has proven to be a little used, and as such ineffective, piece of legislation.

Cornwall Council believes there is an opportunity, as part of this process, to establish a simpler, more transparent and joined up system by extending proposed powers to raise an infrastructure levy to all authorities.

Question 27: What are your views on the process for obtaining approval for a levy from the LEP?

Cornwall Council supports proposals that require the prior engagement of the relevant Local Enterprise Partnership in decision making. However, we consider this should be as a consultee to the authority's budget proposal rather than as an approver. There is already a statutory duty on local authorities to consult with local businesses as part of their budget setting process.

Question 28: What are your views on arrangements for the duration and review of levies?

To fund infrastructure projects, which are necessarily long term, the power to raise a levy requires certainty and longevity.

Cornwall Council agrees with the proposals as outlined in the consultation; that the duration of the levy should be indicated in the initial prospectus.

Question 29: What are your views on how infrastructure should be defined for the purposes of the levy?

Cornwall Council agrees with the proposals as outlined in the consultation; that levy revenues must be used to fund infrastructure projects. It also seems reasonable to define 'infrastructure' in a way consistent with that used for the Community Infrastructure Levy.

Question 30: What are your views on charging multiple levies, or using a single levy to fund multiple infrastructure projects?

Cornwall Council supports the suggestion outlined in the consultation paper; that multiple levies could be levied as long as they do not exceed the 2p in the pound limit.

However, and not to labour the point, Cornwall Council believes this power should be extended to all authorities.

Question 31: Do you have views on the above issues or on any other aspects of the power to introduce an infrastructure levy?

Not to labour the point, Cornwall Council believes the power to raise an infrastructure levy should be extended to all authorities. We would also support the widening of the definition of 'infrastructure' to provide local authorities with greater flexibilities to develop the economy for example by including housing.

Question 32: Do you have any views on how to increase certainty and strengthen local accountability for councils in setting their budgets?

From 2020 local government will be largely funded from locally raised taxation. This change in the balance of funding provides an opportunity to move away from existing annual financial settlements which gives central government control over funding, and reduces the certainty of funding for local government.

Even after 100% Business Rate Retention has been achieved, going forward it is almost certain that some form of Government funding support will remain through specific or section 31 grants. Cornwall Council therefore is interested in obtaining increased certainty through the use of multi-year settlements.

Importantly, in establishing the new system, the process for resetting the baseline and timelines involved should be clearly set out. This was not the case when the system was set up in 2013/14 and, quite unbelievably, at this time is still unknown with potentially significant impact on assumed resources within local authority Medium Term Financial Plans across the country.

Question 33: Do you have views on where the balance between national and local accountability should fall, and how best to minimise any overlaps in accountability?

Cornwall Council believes that this discussion should take place in greater detail once the devolved services are decided upon.

Funding from other departments frequently comes with its own rules and reporting requirements. If Government are genuinely keen for local spending decisions to be scrutinised locally then local authorities need to be free to spend their funding in a way that best suits their residents and businesses.

Question 34: Do you have views on whether the requirement to prepare a Collection Fund Account should remain in the new system?

Cornwall Council believes that the requirement to prepare a collection fund account should remain.

Not only are many of the disclosures within the Collection Fund Account required by statute, the collection fund also helps the transparency of assumptions around estimates and actuals as well as providing a consistent benchmarking figure.

However existing accounting arrangements do not easily allow authorities to recognise and spend income in the year in which it is collected and Cornwall Council would welcome changes to make this system work better.

Question 35: Do you have views on how the calculation of a balanced budget may be altered to be better aligned with the way local authorities run their business?

The requirement to produce a balanced budget is part of the local authority financial control framework and Cornwall Council does not want this removed.

However we believe there are opportunities for and would support improvements to financial reporting that increase transparency and create reports which are better aligned to how local authorities are financed. The sum outlined in the consultation seems appropriate but the Council would also be interested to see an alternative format.

Question 36: Do you have views on how the Business Rates data collection activities may be altered to collect and record information in a more timely and transparent manner?

Cornwall Council agrees that the role and form of existing NNDR1 and NNDR3 forms will necessarily change on the introduction of 100% Business Rate Retention.

However, until the design of the business rates retention model is closer to completion, the Council is not able to advise on likely future data collection activity.

If you have any queries with regards this submission, in the first instance, please contact Anthony Humphreys on 01872 324506 or ahumphreys@cornwall.gov.uk

Yours sincerely



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