PAPER NO. 11

REPORT TO THE EXECUTIVE MEETING OF 5th SEPTEMBER 2016

Meeting:	**Executive**
Date:	**5th September 2016**
Subject:	**Response to DCLG Business Rate Consultation**
Report of:	**Simon Riley**
Portfolio Holder:	**Cllr Phil King, Finance and Commercialisation**
Status:	**For Approval**
Relevant Ward(s):	**All**

1 Purpose of the Report

1.1 To consider and approve the draft consultation response to the DCLG Consultation paper 'Self-sufficient local government: 100% Business Rates Retention'.

2 Recommendations:

2.1 To approve the proposed response to the consultation (Appendix B) for submission by 26th September.

2.2 To delegate to the S151 Officer in consultation with the Portfolio Holder for Finance and Commercialisation any further changes prior to submission.

3 Summary of Reasons for the Recommendations

3.1 The financial framework for local government is changing with a reliance on locally generated funds, especially business rates. The consultation response feeds into the national review of policy and technical changes to the business rate system and accounting.

4 Key Facts

4.1 The Government in 2013 changed from a national business rate system to one where authorities could retain 50% of retained business rate growth. Councils were also give the opportunity to create business rate pools with neighbouring Councils to retain further funding locally rather than go direct to Central Government.

4.2 The move to business rate retention has generated significant retained funds for Harborough as detailed below:

	£000s
2013/14 Retained Business Rate Growth (actual)	903
2014/15 Retained Business Rate Growth (actual)	495
2015/16 Retained Business Rate Growth (actual)	809
2016/17 Retained Business Rate Growth (forecast)	1,117

In addition, the Leicester and Leicestershire Business Rate Pool have a retained levy of £3.4 million at the end of 2015/16.

4.3 The Government is moving to a position by 2020 (2018 for Harborough District Council) where Revenue Support Grant (RSG) will cease as a funding source. At the same time they have policy intent that by 2020, 100% of retained business rate growth will be retained locally. The consultation paper linked to a national working group led by the DCLG/LGA is designing the new system.

4.4 The current business rate system is complex in its design and operation. In addition a large number of appeals and significant delays by the Valuation Office in processing appeals have led to significant volatility in forecasting and the need to make significant provision for appeals within the accounts. This is exacerbated by the financial impact of business rate yields being accounted for over a number of years.

4.5 The consultation paper (**Appendix A**) asks 36 questions based around

(a) Devolution of responsibilities
(b) The Business rate system: Rewarding growth and sharing risk
(c) Local Tax flexibilities
(d) Accountability and accounting

There are a number of key themes running through the consultation:

(a) The move to 100% business rate retention should be ‘fiscally neutral’ linked to the transfer of additional responsibilities such as some welfare payments and growth budgets
(b) A strong driver that additional powers could be exercised by Mayoral Combined Authorities
(c) Strong emphasis that risk (currently at a local authority or pool level) could be shared across a wider number of authorities (region, national?)

In considering the Council response there is the need to consider the unique characteristics of the business rate landscape in Harborough:

(a) We are a rural District with urban business rate characteristics due to the big logistics hubs. As a result we experience more volatility from appeals than most
(b) The Council has been successful in securing business rate growth with the highest level of retained business rate growth and retained levy in Leicestershire since 2013
(c) A successful business rate pool across Leicestershire
(d) Potential for significant growth in the future in the area of strategic logistics, with associated large rateable values from new premises

4.6 The draft Council response to the consultation paper is attached at **Appendix B**. This provides a high level response of the Council's position. On behalf of local government the LGA, CIPFA and the Treasurers' Societies will be submitting more technical response to the consultation and therefore this is not replicated in our response. Prior to submission by the 26th September the Council will consider any responses from these organisations and if necessary make amendments to our draft response if required. It is proposed that changes are delegated to the S151 Officer in consultation with the Portfolio Holder.

4.7 The timetable for implementing the business rate changes has not yet been fully set out. However, it is expected that the changes will become operable from the 2019/20 financial year.

5 Legal Issues

5.1 The Council is required to discharge its' Business Rate system in accordance with national guidance and accounting regulations. In due course, after the consultation a new framework for business rates with associated legislation will be implemented.

5.2 The impact of any sub-regional powers vested in a combined authority and devolution deals would be dependent on the model adopted.

6 Resource Issues

6.1 The Council collects over £36 million of business rates a year which is then shared between DCLG, Harborough District Council, Leicestershire County Council and the Fire Authority. The Council accounts for business rates in accordance with statutory requirements and best accounting practice. Since the introduction of the business rate retention scheme in 2013 a provision of £5.3 million has had to be made in the Council's collection fund for appeals. By implication, this has created significant volatility in the system.

6.2 The impact of the consultation is wide ranging. It is not possible at this stage due to the many interdependencies to establish whether the changes will have a positive or negative financial impact at a local level – the policy intent of being fiscally neutral is at a national level.

7 Equality Analysis Implications/Outcomes

7.1 These will be assessed following the consultation when firm proposals are issued by DCLG.

8. Risk Management Implications

8.1 This report responds to the DCLG consultation. The Council response clearly demonstrates there are risks in changes to the system and the impact on both businesses and future financial funding for the Council. The Council mitigate against short term impact of changes through its business rate growth retention reserve.

9 Consultation

9.1 Consultation has taken place with the Portfolio Holder for Finance and Commercialisation.

10. Options

10.1 There are no options at this stage as the Council is responding to a Government consultation paper.

11 Background Papers

11.1 Council National Non Domestic Rate Returns

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: N

Appendix A: DCLG Consultation paper: Self Sufficient local government: 100% Business Rate Retention

Appendix B: Draft Council response to the consultation paper

Appendix B

100% Business rate Retention – Response to Consultation Paper

Question 1: Which of these identified grants/responsibilities do you think are the best candidates to be funded from retained business rates?

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

The Council note the intention for the move to 100% business rate retention to be fiscally neutral including the transfer of responsibilities and grants. The Council supports this as part of the wider devolution agenda and where there could be a causal link between local decisions and growth. However, the suggested grants are largely demand driven and the Council have concern that the transfer of responsibilities and obligations will significantly exceed the locally retained business rate yield. The £12 billion of responsibilities are largely upper tier and by implication would require a different distribution methodology than that within the current 50% retention scheme. Any changes should not have a detrimental impact on the existing baselines and retained growth from the current scheme for District Councils. The Council also has concern over the proposals to devolve LTCS and benefits Administration Subsidy and the implications of Universal Credit and the transitional costs arising from changes in the welfare budget.

The Council support the devolution of part of public health monies to promote wellbeing within local areas but would encourage Government to look at those centrally held funds that currently do or could support more directly economic growth (transport, skills etc.) rather than the focus on transferring welfare responsibilities.

The tapering out of RSG and dependency on locally retained business growth creates volatility in the funding of local government (in addition to the opportunities that this will bring) means that unfunded demand arising from transfers will be difficult to manage at a time when the overall funding envelope for local government is reducing.

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 exiting and future deals could be funded through retained business rates?

The devolution agenda between Central and Local Government is still maturing. As a result, there are a number of bespoke deals being agreed alongside some more generic policy directives. It would appear that the current ‘mixed economy’ of deals is likely to continue and that a national distribution methodology would not be appropriate. The Council would therefore recommend a bespoke transfer of responsibilities to reflect the model adopted in each area. It is unclear from current devolution deals how such a system/formula would work and therefore additional modelling and transitional protection arrangements would need to be undertaken as part of the next step of the business rate review. Care will need to be taken about funding commitments in existing and future deals fully from retained business rates if this would have the impact of shifting resources from core Council funding mix to ‘hypothecated’ nationally agreed devolution deals. Combined with volatility in the system from business rate appeals and other issues, this could lead to increased instability in the local government sector – which is not the stated intention.

Only ongoing services should be funded from retained rates. In particular, those funds subject to competitive bidding (e.g. Local Growth Fund) should be excluded.

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

The Council fully supports the need for the new burdens doctrine to continue post 2020.

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?

The Council supports the principle of rewarding growth and sharing risk. However the current system has too much volatility built into it from appeals (within Harborough we have £5.3 million provision for appeals due to significant delays in determination by the Valuation Office). It is essential that the Government adopt a different approach to how appeals (which local authorities have no influence) are accounted for. The Council would recommend these are accounted for centrally. If this volatility was removed there is merit in looking at some periodic redistribution through a reset of the system in order to protect on one hand, but also stimulate growth initiatives over a longer period of time. In the absence of more detailed modelling the Council support the principle of a partial reset of the system on a predetermined basis (7 years?) where a proportion of the growth would be included within the reset and a proportion would remain with the authority for the long term.

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

The Council supports the need for the continuation of the redistribution system of top up and tariffs within the system and different tiers of local government – this is essential in the removal of Revenue Support Grant as a Government funding source. The Council agrees that these should be fixed between reset periods to allow certainty in planning. It is important that decisions in this area are linked to a consistent redistribution points as the complex interplay of devolution deals and reset periods could lead to uncertainty in Council's incentivising growth through policy and economic development proposals. The Council does not support a change in the distribution percentages between top tier and lower tier Councils and by implication the retention of the benefits of growth.

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

The Council support regular revaluations as this will produce in the medium to long term increased yields for all the beneficiaries of business rate growth. In order that these technical re-basing exercises do not have a direct impact on locally retained business rate growth the Council supports the current practice that no local authority gains or loses directly from revaluation. As a revaluation generates significant new appeals and could have an 'unintended and detrimental' impact on the intended 'neutral position', it is essential that appeals are managed centrally rather than determined locally – this would reduce significantly the volatility in the system.

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

The Council do not support any proposed shift in business rate baselines and decisions from the Council to any Combined Authority. The Council believe that as the billing authority and the body that currently is exposed to the incentives and risks linked to growing the business rate base that any shift in powers and incentives to the Mayoral Combined Authority without sharing the risk would reduce accountability and incentives for business rate growth locally.

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?

The Council's experience of the tier splits has been very positive and has been integral to the changing financial framework of the District Council. The Council acknowledges that with a large rate base linked to the largest distribution park in England that there is a risk that it picks up a disproportionate risk of variations in the rate base. However, as the retained levy has been in the region of £1 million a year (alongside current arrangements for the safety net) the Council considers that the current system provides a balance between incentives and risk and should remain unchanged.

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?

The Council supports the proposal that fire funding should be removed from the business rate retention scheme. Currently fire authorities retain less than 1% of retained rates. As such, the impact of them being in or out of the scheme is not felt to be material

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?

The Council consider that the current business rate benefits accruing from Enterprise Zones will be eroded through the move to 100% business rate retention. Given the desire to incentivise growth nationally and not in particular zones there should be no further specific incentives specific to these zones. The Council does not support the exclusion of zones in the calculation of ‘cost neutrality’ when devolving responsibilities to local government and for the purposes of working out tariffs and top ups.

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?

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?

The Council acknowledge that this area is complex and has many dependencies. However, as a core principle it makes sense that areas where the Council can not influence should be removed from the list (for example central lists, which currently are vested in a ‘nominated’ local authority. The Council would also support the centralisation of appeals to minimise the impact of significant between year shifts. Modelling of the impact of these issues on individual baselines, and the sensitivity of changes should be undertaken and considered alongside the other changes proposed in this consultation.

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?

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

Within Harborough District the Council has had to make provision for £5.3 million of appeals (an increase of £1.873 million from the previous year). Whilst this is impacted significantly by the failure of the Valuation Office to determine appeals, there remains a significant impact of Councils having to provide for ‘appeal risk’. The Council would support the ‘nationalisation’ of the appeal risk. This should be assessed alongside the distributional proposals earlier in the consultation. Moving forward the service standards of the valuation office must be revisited to ensure lengthy delays in determination are not continued.

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?

The Council support the continuation of the current safety net protection of 7.5%. We are currently within a pool which effectively shares risk. The Council's preference is that this could be operated at an area based level rather than a 'national top slice' that could lead to a disproportionate top slice of retained business rates to 'guarantee' a level of funding in the national safety net, even if this risk was not to materialise.

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

The Council notes the current flexibilities in respect of the setting of a multiplier for those combined authorities with a mayor. Whilst this would provide local discretion and could provide a stimulus for growth it could have an impact of encouraging industry to choose areas with the lowest multiplier and therefore have a negative impact on a Council's tax base. There is also the issue in multi-tier areas over who would agree the multiplier. Taking into account the above the Council would support the retention of the national multiplier.

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

The Council support the retention of the national multiplier with the continuation of existing powers for targeted relief.

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

The Council's position is that its supports retention of the national multiplier. Therefore the Council is not expressing a separate opinion on increasing the multiplier after a period of reduction.

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

The Council's position is that it supports retention of the national multiplier. This would address the issues of the role of Mayoral Combined Authorities and providing safeguards for neighbouring authorities.

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

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

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

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

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

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

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

The Council would support further research in respect of the design of the infrastructure levy and the level that businesses would start to contribute to a levy (if this was to be proposed by the Local Enterprise Partnership). The Council would support the principle that any threshold should be set at a level where only larger businesses would be required to contribute. With the emerging combined authority and devolution agenda greater clarity over the ability of the LEP Board (and or a mayor) to determine regional or local levies must take into account the need for individual local authorities to promote economic growth in a way that meets local needs and priorities.

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

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?

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

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 Council support simplifications to the collection fund which would allow Councils to recognise the retained levy and spend in the same year. The current system is causing technical and timing issues in the reporting of, and ability to use the Council’s General Fund Balance.

The changing financial framework for Councils and dependency on locally generated funds from businesses and housing need to provide certainty at least over the period of Council’s Medium Term Financial Strategies (3 to 5 years). Currently there is insufficient information from the LGA/Government working party to recommend how business rates and the need to balance local and national accountabilities should be set.

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?

The current process of submitting NNDR1 and NNDR 3 forms and the in-year and between year impacts is significant and does not at a national level appear to add significant certainty to the forecasts. The Council would support a simplification and more transparent reporting of the net impact of business rate yields, growth and/or reductions in order to demonstrate to businesses and ratepayers the beneficial impact of retained business rates as part of the local government funding framework.