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Association of County Chief Executives

Anthony May
On behalf of the Chair of ACCE

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Dear Matthew,

The Association of County Chief Executives (ACCE) welcomes the opportunity to respond to the Government's consultation on 100% business rates retention.

Basis of this Response

This response has been agreed by ACCE Leadership and the Advisory Group and has been informed by a special summit held on 7 September 2016, which included representation from ACCE, the Society of County Treasurers and the Local Government Association.

The Background and Context for ACCE Councils

ACCE represents over 30 large upper tier and unitary authorities. These councils provide extensive local services and are uniquely placed to do so in the future. The ability of Councils to meet the current and future complex challenges across the sector, depends heavily on a realistic and productive partnership with Government. Upper tier Councils have worked hard to transform important services during an unprecedented period of financial constraint. It is increasingly the case that demand is outstripping supply, despite this period of intense and highly successful transformation. For example, it is commonly understood that services (particularly people-based services) are subject to significant demand pressures. That said, the cost pressures in these services cannot be seen in isolation and there is also significant pressure on place-based provision. ACCE members are not naïve in believing that the financial clock can be turned back or that there is significant new investment ahead. Nevertheless, the reality of increasing demands and reducing budgets is stark for ACCE member Councils. As a consequence, whilst ACCE welcomes the Government proposals to devolve a greater share of business rates income, this has to be set against the bigger financial picture. A key question for Government is whether the growth in business rates and council tax income will match the growth in these demand-led services.

The Central Message of Conditional Support

Overall, ACCE supports the Government's intention to return business rates to local government and our detailed responses to each of the consultation questions are set out in the attached document. This support is conditional on several points of principle and an understanding of future detailed proposals for the implementation of the new system.

Business Rates Retention and the Local Economy

ACCE support the principle of devolving business rates to local government as a means of incentivising economic growth, but in reality this cannot be divorced from the complex challenges and pressures faced by local authorities, which we have described above. We urge Government to give adequate consideration to these issues along with the projected funding gap facing local government by 2020. The local government Association's estimate of this gap amounts to at least £5.3 billion in 2019/20, including a shortfall for adult social care alone of £1.3 billion.

That aside, given that non-metropolitan areas account for roughly half of England's economy and population, we believe that the economic contribution and growth potential of these areas is as significant for the nation as for that of big cities. Counties are uniquely placed to reform public services, delivering a better economic and social future for residents.

New Responsibilities – Flexibility and Added Value

In our response, we comment on the proposed new responsibilities and we propose some of our own, linked more to the local economy. Whatever new responsibilities come with the new system, it is important that there is genuine discretion over any new budgets and services. Local Government has proved its ability to add value and be creative. Once devolved, the ability to tailor any new responsibilities for local circumstances will build on the strengths of local government and support an efficient and transformational public sector. In saying this, ACCE understands the need for a degree of national consistency and effective governance.

Fairness – Checks and Balances

It is important for the new system to be implemented in a way which is fair and balances rewarding councils for growing their local economies with the need to protect areas less able to generate business rates income. Adequate checks and balances will be needed to protect against sudden changes or where business viability is effected by national government policy. It is critical that the system is future-proofed in order to protect local services and residents.

The Link to Devolution

There is an inextricable link between the Government's ambitions for devolved business rates and its wider programme of devolution. We believe that the opportunity for growth potential and to improve the services offered to residents should not be determined by an authority's governance arrangements and that there should be an equal and common "core offer" across the country. We understand this has to be set against an accountable system, with the appropriate checks and balances, and robust governance.

The Devil is in the Detail

ACCE has responded to the questions about needs and distribution. Currently, the system is complex and although it is desirable to simplify any future arrangements, the landscape will not, in itself, become less complex because local government is less reliant on direct grant. We believe that this calls for an intensive and open analysis of the differential needs of the sector, and the differences between types of councils and local areas. We know that this will require a partnership and understanding across the sector and with government, and ACCE wants to play its part in that.

We hope that Government gives full consideration to our response and are keen to continue to engage during the next stages of technical consultation in the autumn.

Yours sincerely,

Anthony May
On behalf of the Chair of ACCE

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Association of County Chief Executives Response to "Self Sufficient Local Government: 100% Business Rates Retention"

23 September 2016

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

As suggested by the House of Commons CLG Committee in their interim report on business rates, we feel it is important that there is a link between the new responsibilities and economic growth, such as skills and transport. We want a true transfer of responsibilities with the discretion to shape the service offer in our areas. This includes not wanting to 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.

Most of the suggestions put forward on pages 18 and 19 of consultation document as potential new responsibilities, are in fact existing local government responsibilities and, for most councils (outside of London) have no correlation to economic growth.

ACCE is keen to take on new responsibilities which are linked to the economy, we have identified a potential list at 2 question below. ACCE would urge that the opportunity presented by business rate retention is used to genuinely empower local areas, and enable councils to drive further growth and reform. Simply switching funding sources of current responsibilities, or passing over administrative duties or unsustainable pressures will not achieve this.

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

ACCE welcomes the collaborative approach between DCLG and the LGA to define a meaningful set of criteria for additional responsibilities.

It is important to note the significant financial challenges faced by local authorities, in particular, from increasing demand for statutory services and the impact of additional burdens, such as the National Living Wage, Deprivation of Liberty Safeguards, Special Education Needs Transport and Children's Social Care.

Councils will struggle to provide additional new services if these pressures are not adequately funded. Government is urged to address these existing pressures before consideration is given to new services being funded through business rates.

ACCE would prefer the additional responsibilities to relate to skills (including employment), growth, and infrastructure. These being things that that actually relate to business rates and can make a difference locally. They would both be recognised by the business world, responsibilities that businesses would engage more with local communities and ones that local authorities can influence and shape the delivery and improve outcomes for the residents of the council area.

These could include;

- Highways Infrastructure investment
- Bus Service Operators Grant
- Housing investment currently managed by the Homes and Communities Agency
- Funding for Sport
- Adult Education Budget
- Adult Education Support (in particular the National Careers Service)
- Work and Health programme Employment support for claimants of jobseekers Allowance and Employment and Support allowance
- Discretionary Housing Payments and the universal element of universal support

ACCE notes that the services offered to areas piloting devolution deals include many of these services. Consequently, ACCE would strongly support the offer to devolve a wider set of services to areas that don’t have an elected mayor. The consultation paper hints that in some areas, governance may be a barrier to further devolution. ACCE would like to work with the department to find ways in which this can be overcome.

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

ACCE members believe that Combined Authorities offer the chance to coordinate investment in skills, growth and infrastructure and provide a real opportunity to invest in local areas and drive economic growth.

However, the impact on, and opportunities for, areas that do now have devolution deals needs to be considered very carefully. The opportunity to improve the services offered to residents should not be determined by an authority’s governance arrangements. There should be an equal common offer across the country underpinned by appropriate governance. Business Rates Retention is an opportunity to offer local areas a core set of devolved responsibilities to drive devolution across the country.

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?

We would like to see the maximum number of new services devolved to areas that want to take them on with equality of opportunity available to all local authorities.

However, we suggest that we keep this separate from the issue of the quantum. We suggest that strategic functions which are paid for through business rates are devolved to all and the truly bespoke elements of devolution deals and combined authorities are funded from central government departments.

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 as well as offering increased transparency between central and local government. ACCE fully expects the move to 100% business rates retention to also include some element of grant funding. We would not want to see the devolution of new services delayed until a reset nor the risk of them becoming unsustainable through insufficient funding.

Depending on the decision made about the length of time between resets, we would like to see the new burdens doctrine not only assessing the costs in the year of transfer but also projecting costs until the next reset. It is undeniable that many services provided by local authorities are likely to follow a demand pattern which is different to the pattern of economic growth. As such, when a new transfer takes place, funding must be in place in future years to ensure service viability.

In moving to a new model of funding, it is important that Government recognises that all wider policies, laws and regulations need to be reviewed to understand their impact upon public bodies and provide the appropriate funding.

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

The current 50% retention scheme was introduced in April 2013. At that time local authorities believed that there would be a revaluation in 2015 and a full reset in 2020, and then every ten years. Since then we have seen revaluation delayed, the possibility that future revaluations may be more frequent, the suggestion that appeals may be treated differently as well as the notion of self-assessment with regard to business rates. There is also uncertainty about when the new needs assessment could be implemented; resulting in the 2020 assurance also being changed.

Whilst our members are keen to take on new responsibilities and work to improve our services and areas, we are also keenly aware that many of our statutory services impact enormously on the quality of life for many of our most vulnerable residents. The move to 100% business rates does bring with it the potential for less stability in our funding streams. We strongly urge the department to only offer the certainty of fixed reset periods if they feel it is realistic. The value of offering certainty is strongly diminished if either side feels the offer is unrealistic.

ACCE feels that the only viable alternative to fixed reset periods is some sort of trigger where funding and service demand reach a critical disparity. Consequently, we feel this option should be fully examined.

The critical consideration here is risk – what is the risk that future funding will not properly fund services and will the proceeds of growth be lost or retained? If the proceeds will be lost then in order to use these additional funds in long-term investment plans then a longer reset is important, but keeping a proportion of previously obtained growth would mean that shorter reset periods become more palatable.

Inevitably the answer to this question will depend not just on the type of reset but also the type of devolved services, confidence in the need assessment, the expectation of demand and the protection provided by the safety net.

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

As highlighted in our response to question 6, our response to the question of resets will depend on many factors – none of which are known currently. Local government will need to know:

- 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 years 2 and onwards)
- whether the services that local authorities already provide and which are under increasing pressure will be adequately funded in the future. In other words there should be confidence that the demand projections are manageable
- 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 or 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 hence the balance between rewarding growth and funding demand.

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 issue of retained growth is critical to this discussion. ACCE agrees that if an area works to secure growth then they should be able to keep some of it.

What will undoubtedly differ between areas is the level of effort and investment required in order to secure that growth. It also follows that if some areas are retaining their growth then there could be the risk that other areas lose out whilst the growing authority becomes "overfunded" in relation to their need assessment.

It is important that this continuing reward does not penalise residents in other areas. The reduced quantum, as a result of greater reward for growing authorities should be reflected in the new distributable amount.

The information on partial resets that has been shared with local government through the working groups provides an illustration of a partial reset based on 2013-14 data. The modelling showed that, after 19 years and under the parameters used, 25% of authorities were estimated to be over funded by 10% or more compared to their baseline funding level.

The illustration went on to show that demand for some types of services was growing quicker in some areas than in others – something that ACCE thinks should be addressed. We feel that a partial business rates reset should also incorporate an element of needs assessment, specifically for demand-led services such as adult and children's social care. This would offer greater protection (as was the case in 2013-14) where the pressures and demands on a service are likely to be uncorrelated to economic growth.

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

In the light of the government's intention to phase out the Revenue Support Grant, the system of top-ups and tariffs takes on paramount importance. It is hard to see a more simple way to redistribute funding between authorities. However, it does leave us with the unsatisfactory result that the incentives and risk vary wildly – often between very similar authorities. Ideally we would like the incentive and risk to be the same for all similar authorities. For example all lower tier authorities in 2 tier areas remain as tariffs – reflecting their control over some of the "levers of growth" and the fact that they don't have the same specific demographic pressures on their budgets as upper tiers. Single tier authorities – which also control the levers but also have important services under great pressure should be afforded more protection. This contention stems from the fact that upper tier authorities hold responsibilities and budgets, such as adults and children's social care, which are subject to significant demand pressures.

As so often is the case, the devil is in the detail. If the system of top-ups and tariffs is not set up properly, the risk is that a grave injustice will be done to many local authorities that could result in the wholesale diminution of services. More specifically, if the system of top-up and tariffs is not structured appropriately it will seriously and systematically disadvantage local authorities in England's older industrial areas, where the business rate base is weak.

ACCE welcomes the statements in the consultation document that "the government thinks that 100% business rate retention will have some strong similarities with the present system" (p.8) and that "the top-ups and tariffs that each authority could expect to see will be calculated………based on the Fair Funding Review and an assessment on their expected business rate income" (p. 26).

ACCE takes the view that the spirit of these commitments should be reflected in the detail that is put in place. In particular, the government should recognise that the scale of financial redistribution required across the country, through top-ups and tariffs, is not modest or marginal. A few tens of millions redistributed here and there will not suffice.

We refer to the Industrial Communities Alliance submission which illustrates that if local authorities in older industrial England are to be able to deliver services that are in any way comparable to those in the rest of the country, the scale of the financial redistribution will need to be measured in terms of hundreds of millions of pounds a year, and probably in billions.

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 not had a revaluation nor has it given a detailed explanation of what will happen at a revaluation. It is not yet clear how growth attributable to the actions of the local authority will be protected at a revaluation. 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. That said, until we have further clarity, ACCE cannot provide a comprehensive answer to this question.

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

ACCE believes the incentives and opportunity should be open for all authorities to develop their business rate base.

Mayoral or combined authority governance should not be a determinant of the service and growth opportunities available to all residents and businesses.

We strongly suggest that government takes a pragmatic approach to delivering business rates and growth across the country, and that arbitrary governance prerequisites should not be applied. ACCE would welcome the opportunity to work with the government on the detail of this during the next phase of consultation.

Government is already aware of strong opposition to the mayoral model for Combined Authorities, particularly in two-tier areas. To use Business Rates Retention to further exacerbate this seems unwise.

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?

ACCE agrees that the issue of tier splits will need to be considered once the services to be devolved are decided upon. We also agree that there must be consideration of the balance between risk and reward.

There is a need to continue to protect social care for adults and children. These services are demand led and are not correlated to economic growth. Failings in these services can have a devastating impact and therefore funding must continue to be protected.

ACCE, however, is not in a position to comment on the changes required on the necessary tier split as this would naturally follow the work emerging from the Fair Funding review and the balance required between top-up and tariff, risk and reward. As a consequence we would prefer to defer our comments on this issue until the needs work is nearer its completion and we understand the implications for councils in two tier areas.

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" ACCE understands the rationale for a desire to move funding for fire from DCLG to the Home Office.

Whilst those fire authorities that already exist as a stand-alone body may find this proposed transfer a simple administrative one, there are those who are currently contained within unitary or county structures that will find it less straightforward. In some cases the functions of the fire authority are completely embedded within the operation of the bigger authority.

We would need to understand the detail about how this would work before supporting a transfer.

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?

Please see responses to earlier questions. However, ACCE needs greater clarity on the *default* 100% business rates retention model before commenting on whether additional incentives are needed.

Shire areas tend to have a much greater share of their gross rates lost through mandatory reliefs. ACCE would like to sharpen the link between the income and the needs of the residents and allow local authorities more control over the eligibility criteria for mandatory reliefs.

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

In some cases the 'riskier' hereditaments are not only risky in terms of income but also public opinion. Whilst ACCE understands the case for moving them to the central list there is also often a need for compensation for residents which business rate retention can offer. There are also occasions where a business' viability, location and or profitability is affected by national government policy; in which case it should not be to the detriment of local residents.

However, it is difficult to provide a comprehensive answer to this question until more information about the operation and protection of the safety net as well as greater clarity about the criteria for a hereditament to appear on the central list is given.

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?**

ACCE believes this should be decided by individual combined authority areas.

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?**

There is a balance to be struck with risk, both between potential growth and the downside risk on decline. The current arrangements where local authorities have managed the approach to risk have proved unsatisfactory, since when local authorities makes provision for future appeals the total set aside nationally is likely to be more than is needed .

If in any future system, local authorities are expected to make individual provision for liabilities, resulting in a growth in the reserves held locally. If authorities are asked to hold greater risk, they may feel the need to hold more reserves. Government is aware that levels of reserves are subject to significant scrutiny and public debate, particularly at a time when councils are reducing services.

One option is to consider a national provision for business rate appeals, funded using income from the central list, so that authorities do not have to make provisions individually.

Recent indications from a number of NHS trusts, as well as shifts towards increased numbers of academies, is also likely to result in increased funding being set aside to cover appeals. This inter-public sector movement of business rates should be addressed as a matter or priority before the move to 100% business rates retention.

A wider issue is about the process and timeliness between valuations and the consequential appeals process. Moving the risk between tiers of authority will not alter the risk until the entire process of valuation and appeals is reformed.

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

There are currently 300,000 appeals outstanding from the 2010 list. We support the introduction of the new Check Challenge Appeal system but it is not yet clear what effect this will have on appeals. As part of this reform, there should be tighter deadlines for when appeals have to be lodged. ACCE considers that the government should devote resources to ensuring that the Valuation Office Agency (VOA) can resolve all outstanding appeals within the 12 months from when the new list comes into effect in April 2017 so that there is not a backlog when the new system is introduced. We also consider that there should be a review of the role and functioning of the VOA, including its line of accountability. There is a strong case for any outstanding appeals when the system starts to be held at a national level and managed nationally.

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

In the early years of the current rates retention system, many authorities who chose to pool actually lost out financially due to the way the safety net operated in a pool. This kind of pool safety net would necessitate some kind of levy or top-slice from all pool members. Those who think they are unlikely to trigger the safety net will find this unattractive.

As with the current system, joining a pool or not should be left to local discretion.

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

Similar to previous answers, a judgement can only be made on this once the local authorities understand the services they will be delivering, the funding they will be receiving and how 100% retention will look.

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

In billing authority areas the decision is simple as the costs fall to the decision making authority. However, in two tier areas where the decision will affect more than the billing authority ACCE believes the default position as regards the financial implications of such a decision should fall to the authority who made the decision unless local agreement can be reached on a shared approach.

Moving forward two-tier areas will need to work closely to ensure an aligned approach.

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

ACCE is not attracted by the power to reduce the multiplier. The Localism Act already allows local authorities to offer discretionary discounts at targeted ratepayers. It is likely that offering a discount for all ratepayers will be too costly for the potential benefits.

ACCE would prefer to have the freedom to change the eligibility for other reliefs and discounts.

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

ACCE believes that a strategic and joined-up approach to setting the multiplier, reliefs and levies must be taken across two-tier areas. This would help set a clear and attractive offer to business, and allow targeted measures for growth or regeneration over the broader area.

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 these should be granted to all local authorities, regardless of whether they are in a combined authority or have an elected mayor.

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

All areas should have the power to raise strategic levies after any reduction in consultation with local businesses so that they can invest in long-term growth.

Capping this could dis-incentivise decisions to reduce the multiplier and potentially undermine the stability of council funding.

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

ACCE does not have an opinion.

The business rates administration consultation hinted at a way to capture smaller, businesses who tend to trade on-line. ACCE would be interested if there were such a way that these businesses can be asked to contribute to the local area when their physical footprint often means they are exempt from paying.

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

ACCE members range from sharing boundaries with single LEPS to having 3 LEPS covering their local authority. Naturally, this can add complexity if they need to give their approval.

ACCE suggests that the LEP are consultees to the authority’s budgets rather than approvers.

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

ACCE agrees with the Department’s suggestion; that the duration of the levy should be indicated in the initial prospectus.

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

ACCE agrees with the suggestion outlined in the consultation paper.

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

ACCE agrees with the suggestion outlined in the consultation papers; that multiple levies could be levied as long as they didn't exceed the 2p limit.

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

No, although ACCE is mindful that there is only so far you can push businesses; asking them to fund services locally which historically would have been funded by local authorities and/or central government.

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

The consultation is hinting at removing the legislation which requires government to make annual settlements to local authorities. ACCE is interested in obtaining increased certainty through the use of multi-year settlements but would prefer if this was discussed fully with central government as to how this would work and how many years a settlement would cover.

As we mentioned earlier, ACCE still envisage some kind of specific or section 31 grants remaining part of the funding even after 100% business rates retention is achieved. The success of multi-year settlements will be determined not just by what local government do with the additional certainty but also how well central government are at leaving the funding system untouched in the relevant years.

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?

ACCE 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 really keen for local spending decisions to be scrutinised locally then local authorities need to be free to spend their funding in a way that suits their residents.

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

ACCE believes that the Collection Fund Account should remain. The Collection Fund helps the transparency of assumptions around estimates and actuals as well as providing a consistent benchmarking figure.

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 calculation should more clearly match the way in which local authorities set their balanced budgets.

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?

ACCE would prefer to consider this question once the design of the business rates retention model is closer to completion.