CABINET
4 OCTOBER 2011

ITEM NO. ....

CONSULTATION ON THE LOCAL GOVERNMENT RESOURCES REVIEW – BUSINESS RATES RETENTION

Responsible Cabinet Member – Councillor Stephen Harker
Efficiency and Resources Portfolio

Responsible Director – Paul Wildsmith, Director of Resources

SUMMARY REPORT

Purpose of the Report

1. This report gives an overview of the proposals to allow local authorities to retain their locally raised business rates.

Summary

2. On the 18 July 2011 the Department for Communities and Local Government (DCLG) published a consultation paper setting out proposals for a business rates retention scheme to replace the current local Government finance system, under which business rates are distributed as part of formula grant.

3. On the 19August 2011 the DCLG published 8 technical papers to assist in understanding the mechanics of the proposal on business rates retention. The consultation deadline is 24 October 2011.

4. This report sets out details of the consultation document, the potential issues for the Council, and seeks approval for the Council's response.

Recommendation

5. It is recommended that Cabinet:-

   (a) Note the content of this report and the issues raised about the proposed changes.

   (b) Delegate approval of the response to the consultation to the Cabinet Member for Efficiency and Resources and the Director of Resources to allow further work and consultation with colleagues in the region to be undertaken prior to the response date.

Reasons

6. The recommendation is supported to ensure the views of Darlington Borough Council are fully heard in the consultation on the Local Government Resources Review.

Paul Wildsmith
Director of Resources

Background Papers

Local Government Resource Review: Proposals for Business Rates Retention

Elizabeth Davison - Extension 2601

S17 Crime and Disorder	There are no specific crime and disorder implications in this report
Health and Well Being	There are no specific Health and Well Being implications in this report
Carbon Impact	There are no carbon impact implications in this report
Diversity	The report does not contain any proposals that impact on diversity issues
Wards Affected	All wards are affected
Groups Affected	No specific groups are particularly affected
Budget and Policy Framework	The issues contained within this report do not represent change to Council budget or the Council's policy framework.
Key Decision	This is not a key decision
Urgent Decision	For the purpose of the 'Call-in' procedure this does not represent an urgent decision.
One Darlington: Perfectly Placed	The report does not contain any proposals that impact on themes of the Sustainable Community Strategy.
Efficiency	It is unclear at this stage whether any efficiencies could be realised.

MAIN REPORT

Background Information

7. Local Councils currently receive their funding from three main sources: central Government grants (formula and specific): Council Tax and locally generated income in the form of fees and charges.

8. One of the main components of formula grant is national non-domestic rates, also known as business rates. They are collected by local authorities and then paid into central pool to be redistributed as part of formula grant.

9. The Government is proposing to change the current system by enabling Councils to keep a share of the growth in business rates in their area. The thinking being that this will make Councils more financially independent from central Government and give them a strong incentive to promote local business growth. The proposal is to return business rates to local Government from 1 April 2013.

10. Darlington's Formula Grant for 2011/12 is £41M. It is anticipated business rates of £34M will be collected in the same period. In the new proposal Darlington would keep all the business rates collected and receive a top up from the Government to meet the difference between the business rates collected and the formula grant e.g. £7M.

11. There is no proposal to make any changes to the way businesses pay tax or the way the tax is set. Rate setting powers will remain under the control of central Government

The Principles

12. The DCLG have issued a consultation document "Local Government Resources Review: Proposals for Business Rate Retention", which sets out the principles for the reform, which are to:

    (a) build into the local Government finance system **an incentive for local authorities** to promote local growth over the long term;
    (b) **to reduce local authorities' dependency** upon central Government, by producing as many self sufficient authorities as possible;
    (c) to maintain a degree of redistribution of resources to ensure that authorities with high need and low taxbases are still **able to meet the needs** of their areas; and
    (d) **protection for businesses** and specifically, no increases in locally-imposed taxation without the agreement of local businesses. Give local authorities a greater stake in the economic future of their local area.

13. The core components of the proposal rates retention scheme are:

    (a) **Component 1: Setting the Baseline**
    To establish a starting point for all local authorities a baseline position will be set in 2013-14 for each local authority, within the overall envelope of the expenditure control totals set out in the 2010 Spending Review. This means that a proportion of business rates revenues will be set aside and directed to local Government through other grants.

(b) **Component 2: Setting Tariffs and Top Ups**
In order to achieve this starting position, Government would calculate a tariff or top up amount for each local authority. Those authorities with business rates in excess of their baseline level of funding would pay a tariff to Government; those authorities with business rates yield below their baseline would receive a top up grant from Government. The tariff and top up grants would be self funding and remain fixed in future years.

(c) **Component 3: The Incentive Effect**
In future years, local authorities would keep a significant proportion of increases in their business rates. So, authorities whose business rates grew would retain a significant proportion of that growth in revenues, while those whose rates declined or grew at a lower rate would experience lower or negative growth.

(d) **Component 4: A Levy Recouping a Share of Disproportionate Benefit**
To manage the possibility that some local authorities with high business rate tax bases could see disproportionate financial gains, Government would recoup a share of disproportionate benefit through a levy. The proceeds would, in the first instance, be used to manage significant negative volatility in individual authorities' business rates and so ensure stability in the system. Depending on the amounts raised, resources could also be redistributed to, for instance, authorities with lower growth, or for example, to fund regeneration schemes, in areas with high growth potential.

(e) **Component 5: Adjusting for Revaluation**
The system would be adjusted to take account of changes in the distribution of business rates yield resulting from five yearly revaluations, while ensuring that the incentive to promote physical growth in the business rates base remained in place for all authorities.

(f) **Component 6: Resetting the System**
Government would have the option of resetting the system if it was felt that resources no longer met changing service pressures sufficiently within individual local authority areas. The longer the period between resets, the greater the incentive effect and level of certainty for local authorities about the funding system. This component is described in more detail at paragraphs.

(g) **Component 7: Pooling Local Authorities**
For example those in local enterprise partnerships, or districts and counties, could choose to form voluntary pools within the system, allowing them to share the benefits of growth and smooth the impact of volatility over a wider economic area.

Analysis and Issues

14. On the 19 August 2011 8 technical papers were released and work is ongoing to assess the implications of varying options within these papers for Darlington. Initial work raises concerns around the baseline and volatility

15. The proposal is to use 2012-13 formula grant as the basis for establishing individual authorities baseline funding levels. A particular issue for Darlington is damping as formula grant is reduced by £1.3M in the current system. Using the 2012-13 position as a starting point would automatically build this loss into the baseline.

16. As the business rates retention scheme needs to operate within the expenditure control totals for 2013-14 and 2014-15 as set out in the Comprehensive Spending Review, a key issue will be the Government's assumptions on business rate growth to be retained by Government. This sum has not been agreed and there is a concern this could act as a disincentive to growth, for example if the assumption is 10% it may mean all Council starting points for business rates is baseline less 10%. If Darlington's growth is below this we would be automatically disadvantaged.

17. Volatility - Business Rates can go down as well as up so Councils will face the risk of losing rates and not having sufficient resources to operate. The consultation papers recognise this risk and there is discussion around managing this via safety nets and compensation. The levels at which these schemes would kick in is an issue for Darlington, if for example the safety net was set at a predetermined level of 10% and Darlington lost business rates of 9% the impact would be significant at circa £3M.

18. The cumulative impacts of all the changes ongoing could threaten the future standing of the Council. The changes proposed to Council Tax benefits, discussed in another paper on this agenda, along with the potential affects of the Resources Review will create significant risk to the Council. Further to this the Government's Council Tax capping powers will diminish Darlington's ability to raise revenue to overcome any pressures.

Response to the Consultation

19. There are still a number of unknowns and the consultation document lacks detail in a number of areas to enable officers to establish the financial impact on Darlington Borough Council.

20. Detailed work on the technical papers is ongoing with colleagues from across the north east to inform an ANEC response to the consultation. Initial views to the consultation questions are attached at **Appendix 1** however, this is document is work in progress as further analysis is required.

21. Given Darlington's economy and the relatively small top up we would receive, we are not an extreme Council. However, the consultation papers do raise a number of concerns, in particular the baseline and volatility protection, which the Council would wish to include in its response to the consultation.

22. As the closing date for responses to the consultation document is 24 October 2011 it is recommended that the Cabinet Portfolio Member for Resources and the Director of Resources be delegated approval of the response.

Outcome of Consultation

23. No consultation has been undertaken.

Appendix 1

LGRR Consultation Questions Template for responses to ANEC

Main Consultation Paper Local Government Resource Review – Proposals for Business Rates Retention	
Q1 (p21)	**What do you think that the Government should consider in setting the baseline?**
Response	**A fair starting point for all, prior to damping**
Q2 (p21)	**Do you agree with the proposal to use 2012-13 formula grant as the basis for constructing the baseline? If so, which of the two options at paragraphs 3.13 and 3.14 do you prefer and why?**
Response	**Yes as a basis for constructing the baseline but as above needs to be prior to damping**
Q3 (p23)	**Do you agree with this proposed component of tariff and top up amounts as a way of re-balancing the system in year one?**
Response	**Yes as long as it is clear and equitable**
Q4 (p23)	**Which option for setting the fixed tariff and top up amounts do you prefer and why?**
Response	**RPI**
Q5 (p23)	**Do you agree that the incentive effect would work as described?**
Response	**Yes to some degree, although it does not take into account areas which are fully developed**
Q6 (p25)	**Do you agree with our proposal for a levy on disproportionate benefit, and why?**
Response	**Yes because otherwise there would not be a level playing field**
Q7 (p25)	**Which option for calculating the levy do you prefer and why?**
Response	**N/A – levy is unlikely to apply in Darlington**
Q8 (p25)	**What preference do you have for the size of the levy?**
Response	**One percent business rate growth to one percent revenue increase**
Q9 (p25)	**Do you agree with this approach to deliver the Renewable Energy commitment?**

Main Consultation Paper Local Government Resource Review – Proposals for Business Rates Retention	
Response	
Q10 (p27)	**Do you agree that the levy pot should fund a safety net to protect local authorities: i) whose funding falls by more than a fixed percentage compared with the previous year (protection from large year to year changes); or ii) whose funding falls by more than a fixed percentage below their baseline position (the rates income floor)?**
Response	**Yes**
Q11 (p27)	**What should be the balance between offering strong protections and strongly incentivising growth?**
Response	**Emphasis should be on stronger protection to give stability**
Q12 (p27)	**Which of the options for using any additional levy proceeds, above those required to fund the safety net, are you attracted to and why?**
Response	**Baseline**
Q13 (p27)	**Are there any other ways you think we should consider using the levy proceeds?**
Response	
Q14 (p28)	**Do you agree with the proposal to readjust the tariff and top up of each authority at each revaluation to maintain the incentive to promote physical growth and manage volatility in budgets?**
Response	**Yes**
Q15 (p28)	**Do you agree with this overall approach to managing transitional relief?**
Response	**Yes**
Q16 (p29)	**Do you agree that the system should include the capacity to reset tariff and top up levels for changing levels of service need over time?**
Response	**Yes, needs some flexibility**
Q17 (p29)	**Should the timings of resets be fixed or subject to government decision?**
Response	**Fixed**

Main Consultation Paper Local Government Resource Review – Proposals for Business Rates Retention	
Q18 (p29)	**If fixed, what timescale do you think is appropriate?**
Response	**5 years**
Q19 (p29)	**What are the advantages and disadvantages of both partial and full resets? Which do you prefer?**
Response	**Partial**
Q20 (p29)	**Do you agree that we should retain flexibility on whether a reset involves a new basis for assessing need?**
Response	**Yes**
Q21 (p32)	**Do you agree that pooling should be subject to the three criteria listed at paragraph 3.50 and why?**
Response	**Yes**
Q22 (p32)	**What assurances on workability and governance should be required?**
Response	**N/A**
Q23 (p32)	**How should pooling in two tier areas be managed? Should districts be permitted to form pools outside their county area subject to the consent of the county or should there be a fourth criterion stating that there should always be alignment?**
Response	**N/A**
Q24 (p32)	**Should there be further incentives for groups of authorities forming pools and, if so, what would form the most effective incentive?**
Response	**N/A**
Q25 (p33)	**Do you agree with these approaches to non-billing authorities?**
Response	**N/A**
Q26 (p34)	**Do you agree this overall approach to funding the New Homes Bonus within the rates retention system?**
Response	**Yes**

Main Consultation Paper Local Government Resource Review – Proposals for Business Rates Retention	
Q27 (p34)	**What do you think the mechanism for refunding surplus funding to local government should be**
Response	**Same basis as formula grant distribution**
Q28 (p36)	**Do you agree that the current system of business rates reliefs should be maintained?**
Response	**Yes**
Q29 (p40)	**Which approach to Tax Increment Financing do you prefer and why?**
Response	
Q30 (p40)	**Which approach do you consider will enable local authorities and developers to take maximum advantage of Tax Increment Financing?**
Response	
Q31 (p40)	**Would the risks to revenues from the levy and reset in option 1 limit the appetite for authorities to securitise growth revenues?**
Response	
Q32 (p40)	**Do you agree that pooling could mitigate this risk?**
Response	
Q33 (p40)	**Do you agree that central government would need to limit the numbers of projects in option 2? How best might this work in practice?**
Response	

Technical paper 1: Establishing the baseline	
TP1 Q1 (p9)	**Do you agree with the proposed approach to calculating the amount of business rates to be set aside to fund other grants to local government? If not, what alternative do you suggest and why?**
Response	**Yes although baseline should be pre damping**
TP1 Q2 (p11)	**Do you agree with the proposed approach for making an adjustment to fund New Homes Bonus payments, and for returning any surplus to local authorities in proportion to their *baseline funding* levels?**
Response	**Yes**
TP1 Q3 (p12)	**Do you agree with the proposed approach for making an adjustment in the event of any functions being transferred to or from local authorities?**
Response	
TP1 Q4 (p13)	**Q4: Do you agree with the proposed approach for making an adjustment to fund police authorities, and potentially also single purpose fire and rescue authorities?**
Response	**Yes**
TP1 Q5 (p16)	**Do you agree with the proposed approach for ensuring that no authority loses out in 2013-14 as a result of managing the business rates retention system within the 2014-15 expenditure control total?**
Response	**Yes**
TP1 Q6 (p18)	**Q6: Do you agree that we should use 2012-13 formula grant after floor damping as the basis for establishing authorities' *baseline funding* levels? If not, why?**
Response	**No – baseline incorrect**
TP1 Q7 (p18)	**Do you agree that we should use 2012-13 allocations as the base position for floor damping in calculating the 2013-14 formula grant equivalent; and use the 2013-14 formula grant equivalent as the base position for floor damping in calculating individual authority's *baseline funding* levels?**
Response	**Yes**
TP1 Q8 (p18)	**If not, which years should be used as the base position for floor damping in each of these calculations, and why?**
Response	**N/A**
TP1 Q9 (p19)	**If option one is implemented, do you agree that we should reduce the formula grant for each tier of services according to its Spending Review profile?**
Response	**Yes**

Technical paper 1: Establishing the baseline	
TP1 Q10 (p19)	**Q10: If so, do you agree with the proposed methodology for splitting formula grant between the service tiers for those authorities that have responsibility for more than one tier of service, as described in annex B?**
Response	**N/A**
TP1 Q11 (p21)	**Q11: If option two is implemented, do you think we should update none, some or all of the data sets used in the formula grant calculations? If you think some should be updated, which ones, and why?**
Response	**Yes, best to use most recent data**
TP1 Q12 (p22)	**If option two is implemented, do you think we should review the formulae for none, some or all of the grants rolled in using tailored distributions? If you think the formulae should be reviewed for some of these grants, which ones, and why?**
Response	
TP1 Q13 (p23)	**If option two is implemented, do you think we should review the relative needs formula for concessionary travel?**
Response	
TP1 Q14 (p23)	**Do you think we should review any of the other relative needs formulae? If so, which ones and why?**
Response	
TP1 Q15 (p23)	**If option two is implemented, do you think we should alter the balance between service demands and resources; and if so, how?**
Response	**No**
TP1 Q16 (p24)	**Do you agree with the proposed approach for establishing guaranteed levels of funding for police authorities, and potentially also single purpose fire and rescue authorities, in 2013-14 and 2014-15?**
Response	
TP1 Q17 (p26)	**Do you agree with the proposed approach for funding new burdens within the business rates retention scheme? If not, why?**
Response	**Yes**
TP1 Q18 (p28)	**Do you agree with the proposed approach for dealing with boundary changes and mergers? If not, what alternative would you propose, and why?**
Response	**Yes – Councils should be no worse off**

Technical paper 1: Establishing the baseline	
TP1 Q19 (p28)	**Do you agree with the proposals on the future of Revenue Support Grant?**
Response	**Yes**

Technical paper 2: Measuring business rates	
TP2 Q1 (p8)	**In the absence of billing authority estimates for 2013-14 and 2014-15, do you agree with the Government's proposals for setting the forecast national business rates?**
Response	**Yes**
TP2 Q2 (p10)	**Q2: Do you agree with the proposed basis on which proportionate shares would be calculated?**
Response	**Yes**
TP2 Q3 (p11)	**Which of the options – "spot", or "average" – do you believe would be the fairest means of determining each billing authority's business rate yield, upon which proportionate shares would be based?**
Response	**Average**
TP2 Q4 (p15)	**Do you agree with the allowable deductions the Government proposes to make to each billing authority's business rates yield, to reflect differences in the local costs of items such as reliefs, in establishing proportionate shares?**
Response	**Yes**

Technical paper 3: Non-billing authorities	
TP3 Q1 (p11)	**Of the two options outlined for determining a county council's share of a billing authority business rates baseline (pre-tier split), which do you prefer?**
Response	**N/A**
TP3 Q2 (p12)	**Do you agree that police authorities should receive fixed funding allocations in 2013-14 and 2014-15 through an adjustment to the forecast national business rates?**
Response	**N/A**
TP3 Q3 (p14)	**Do you agree that the services provided by county fire and rescue authorities should be funded through a percentage share of each district council's billing authority business rates baselines (pre-tier split), subject to any tariff or top up required to bring them to their baseline funding level?**
Response	**N/A**

Technical paper 3: Non-billing authorities	
TP3 Q4 (p14)	**Do you think that single purpose fire and rescue authorities should be funded:** **a. through a percentage share of each district council's billing authority business rates baselines (pre-tier split), subject to any tariff or top up required to bring them to their baseline funding level; or** **b. through fixed funding allocations for 2013-14 and 2014-15, through an adjustment to the forecast national business rates?**
Response	**N/A**

Technical paper 4: Business rates administration	
TP4 Q1 (p8)	**Do you agree with the proposed approach for administering billing authorities' payments to central government?**
Response	**Yes**
TP4 Q2 (p9)	**Do you agree with the proposed approach for administering billing authorities' payments to non-billing authorities?**
Response	**N/A**
TP4 Q3 (p10)	**Do you agree with the proposals for year end reconciliation?**
Response	**Yes**
TP4 Q4 (p10)	**Do you agree with there should be a process for amending payments to non-billing authorities to reflect in-year changes, similar to the current NNDR2 returns?**
Response	**Yes**
TP4 Q5 (p10)	**If there is a process for amending payment schedules, do you think changes should be possible at fixed points throughout the year? How frequently should changes be possible?**
Response	
TP4 Q6 (p10)	**Alternatively, do you think changes should only be possible if triggered by significant changes in business rates forecasts? What do you think should constitute a significant change?**
Response	
TP4 Q7 (p11)	**Do you agree with the proposed approach for administering payments to and from non-billing authorities?**
Response	**N/A**
TP4 Q8 (p13)	**Do you agree with the proposed approach for establishing liability for the levy on the basis of an authority's pre-levy business rates income and eligibility for support from the safety net on the basis of an authority's post levy income?**
Response	

Technical paper 5: Tariff, top up and levy options	
TP5 Q1 (p11)	**Should tariffs and top ups be index-linked, or should they be fixed in cash terms?**
Response	**Index linked**
TP5 Q2 (p11)	**Do you agree that a pool's tariff, or top up, should be the aggregate of the tariffs and top ups of its members?**
Response	
TP5 Q3 (p20)	**Do you agree that the levy should apply to change in *pre-levy income* measured against the authority's *baseline funding level*?**
Response	**Yes**
TP5 Q4 (p20)	**The main consultation document seeks views on which option for calculating the levy you prefer (flat rate, banded or proportional) and why. What are your views about the levy rate that should be applied if a flat rate levy is adopted?**
Response	**N/A**
TP5 Q5 (p20)	**If a banded levy is adopted, should the bands be set on the basis of an authority's gearing, or on some other basis; how many bands should there be and what levy rates that should be applied to each band?**
Response	**N/A**
TP5 Q6 (p20)	**Under a proportional scheme, what is your view of the levy ratio that should be applied?**
Response	**1:1**
TP5 Q7 (p20)	**Do you agree that pools of authority should be set a lower levy rate, or more favourable levy ratio than would have been the case if worked out on the aggregate of the pool members levy?**
Response	**N/A**
TP5 Q8 (p25)	**Do you agree that safety net payments should be triggered by changes in an authority's *retained income*?**
Response	**Yes**
TP5 Q9 (p25)	**The main consultation document seeks views on whether there should be a *safety net* for annual changes in post-levy income. If so, what percentage change in annual income do you think that authorities could reasonably be expected to manage before the safety net kicked-in?**
Response	**One percent**

Technical paper 5: Tariff, top up and levy options	
TP5 Q10 (p25)	**The main consultation document also seeks views on whether there should be a *safety net* against absolute falls in income below an authority's *baseline funding levels*. If so, at what percentage below baseline should the safety net kick- in?**
Response	**One percent**
TP5 Q11 (p25)	**Do you think that for the purposes of the baseline safety net, the baseline should be annually uprated by RPI, or not?**
Response	**Yes**
TP5 Q12 (p25)	**Do you think that the safety nets should provide an absolute guarantee of support, or should financial assistance be scaled back if there is insufficient funding in the levy pot?**
Response	**Yes**
TP5 Q13 (p25)	**Should safety net support be paid in year, or after a year- end?**
Response	**In year**
TP5 Q14 (p25)	**Do you agree that pools should be treated as single bodies?**
Response	

Technical paper 6: Volatility	
TP6 Q1 (p12)	**Do you agree that some financial assistance should be provided to authorities for the effects of volatility?**
Response	**Yes**
TP6 Q2 (p12)	**Of the options set out in the paper, which would you prefer? Do you agree with the Government's analysis that a safety net, instead of an events-based, or application-based approach offers the best way of managing volatility?**
Response	**Safety net**

Technical paper 7: Revaluation and transition	
TP7 Q1 (p9)	**Do you agree that *tariffs* and *top ups* should be adjusted at a Revaluation to ensure that authorities' *retained income* is, so far as possible, unaffected by the impact of the revaluation?**
Response	**Yes**
TP7 Q2 (p9)	**Do you agree that, having made an adjustment to *tariffs* and *top ups*, there should be no further adjustments to reflect subsequent appeals against the rating list?**
Response	**No**
TP7 Q3 (p14)	**Do you agree that transitional relief should be taken outside the main business rates retention scheme?**
Response	**Yes**
TP7 Q4 (p14)	**Do you agree with the Government's proposal for a system of *transitional adjustments*?**
Response	**Yes**
TP7 Q5 (p14)	**Do you agree that any deficit on *transitional adjustments* should be charged to the levy pot?**
Response	**Yes**

Local Government Resource Review: Proposals for Business Rates Retention Technical paper 8: Renewable energy	
TP8 Q1 (p10)	**Do you agree that the generation of power from the renewable energy technologies listed above should qualify as renewable energy projects for the purposes of the business rates retention scheme?**
Response	
TP8 Q2 (p14)	**Do you agree that establishing a baseline of business rate income from existing renewable energy projects against which growth can be measured is the most effective mechanism for capturing growth. If not, what alternative approach would you recommend and why?**
Response	
TP8 Q3 (p14)	**Do you agree with the proposal to define “renewable energy projects” using, as a basis, the definition in previous business rates statutory instruments?**
Response	
TP8 Q4 (p15)	**Do you agree with the proposal for identifying qualifying business rates income from new renewable energy technologies installed on existing properties?**
Response	
TP8 Q5 (p15)	**Do you agree with the proposal that the business rates income from Energy from Waste plants that qualify as being from a renewable energy project should be determined by the Valuation Office Agency apportioning the rateable value attributable to renewable energy generation? If not, what alternative would you propose, and why?**
Response	
TP8 Q6 (p17)	**Do you agree with the proposal that the billing authority should be responsible for determining which properties qualify as a renewable energy project?**
Response	
TP8 Q7 (p18)	**Do you agree that the revenues from renewable energy projects should be retained, in two tier areas, by the local planning authority, or do you consider that the lower tier authority should receive 80 per cent of the business rates revenue and the upper tier authority 20 per cent?**
Response	