APPENDIX II

Leeds City Council

Response to the Local Government Resource Review: Proposals for Business Rates Retention

October 2011

Leeds City Council welcomes the opportunity to comment on the consultation on this first phase of the Local Government Resource Review.

The proposals are both ambitious and radical and deserve to be taken seriously. We have, therefore, devoted considerable resources to preparing what we believe to be a detailed and constructive response.

We do, however, have very serious reservations about many aspects of the proposals, so we have structured our response in three parts:

- an introductory section in which we set out some of those reservations and our reasons for believing the proposals to be seriously flawed;
- a section in which we give our responses to the questions in the main consultation paper; and
- a longer section in which we set out our responses to the questions in the technical papers.

There are inevitably some overlaps in these latter two sections, and our responses to specific questions need to be read in the context of our overall reservations about the business rates retention scheme. Nevertheless, we have tried to be both honest and constructive, setting out what we believe to be the most practical way forward for each question even when we do not agree with the underlying principle.

We welcome the Government's desire to continue dialogue with the local government community on the proposals and look forward to being able to contribute to that debate. We fully recognise that the current local government funding system is in urgent need of reform, and it is in all our interests to establish a fairer and more understandable system that will provide stability through the next Spending Review period.

<u>General Comments on the Proposals</u>

1. The proposals represent a major shift in the approach to funding local authorities from a system based, however imperfectly, on an objective assessment of needs and resources, to one that is based on just one factor: the capacity to grow the business rates tax base over time. The fundamental principle that funding should follow need will be lost.

2. This might be acceptable if business rates tax bases were directly controllable by local authorities and could be adjusted locally in-line with changing needs, but the most cursory analysis shows that business rates growth depends upon a whole range of factors, such as proximity to key markets, transport

links, land availability, demographics and changing economic conditions, all of which are largely outside the control of local authorities and which authorities can only influence at the margins.

3. It appears that local authorities that are fortunate enough to have successful local economies will continue to forge ahead compared to those whose economies are less well-developed or not as buoyant, and the gap between rich and poor areas will continue to widen. We accept that the levy and safety net arrangements will do something to lessen this "gearing" effect, but we are concerned that the proposals do not go far enough to protect the areas that are the most disadvantaged.

4. Another aspect to this is in relation to the Secretary of State's argument that *"any council that grows its local economy will be better off under the new system"*[1]. Business rates growth is not a complete proxy for economic growth. The links between growth in the IT and tourism sectors and business rates is weak, for example; and "start-ups" and small businesses operating from home have only a minimal effect upon business rates tax bases, even though their contribution to their local economies may be significant. There is therefore a risk that smaller, more rural districts, with limited capacity to attract new offices and industrial units could be disadvantaged even when their local economies are relatively buoyant.

5. There is another anomaly in relation empty properties. In the current economic climate, many properties that are unoccupied attract 100% empty rates. A successful local authority which is experiencing significant economic growth could see many of these properties brought back into use, but would receive no financial benefit under the rates retention scheme because there would be no increase in the business rates "take". In other words, the only fruit of economic growth that would benefit the local authority would be that coming from new builds.

6. As well as breaking the link between funding and need, the new system will also end the relationship between funding and resources as measured through Council Tax bases. This loss of equalisation will, in our view, widen the gap still further between the more prosperous and economically vibrant areas that are still able to attract new housing, and those that are struggling to attract that investment.

7. We remain very concerned that local government funding is still to be managed down in line with the Spending Review control totals. Our understanding is that theoretically it would be possible for local government to benefit as a whole if the aggregate growth in business rates exceeded the Government's national target. However, in his oral evidence to the Select Committee the Secretary of State agreed (at least within this Spending Review) that *"any excess generated by local government over the amount they need to spend as laid out in the CSR will be retained by the Department / Treasury"*[2]. If this is correct, the system is little more than "a zero sum game",

[1] Ministerial Forward, page 4

[2] Uncorrected Evidence taken before the Communities and Local Government Committee, 12th September 2011

in which local authorities that are successful in growing their local economies will only see gains at the expense of other authorities that are less successful and there will be no financial rewards for growth for local government as a whole until at least the next Spending Review period. This will seriously dilute any incentive effect of the proposals in this Spending Review period, and calls into question whether this is the right time to introduce such a radical change.

8. The transfer of risk from central to local government will introduce uncertainty into the funding of individual local authorities as each year, as part of our budget setting, we will now have to make an assessment of what we will receive and collect through business rates, with any variations impacting upon our level of resources. Consequently, we will need to adopt a more prudent approach either in terms of in year collection rates or assumed growth, or perhaps by setting up some contingency or reserve. At a time when local authorities are having to make significant budget cuts, we would question whether the introduction of such a level of uncertainty is helpful.

9. As indicated earlier, we have serious concerns about whether it is appropriate to make such major changes for the last two years of the Spending Review period. In our view, if they were introduced at all, it would be better to introduce them at the start of the next Spending Review period in 2015-16, to coincide with the new Valuation List. This would allow time for the proposals to be discussed more thoroughly and the obvious problems to be resolved. It would also allow central and local government to develop a way forward in partnership to provide a long-term and sustainable system of local government finance. We appreciate that the Government wishes to take an incremental approach to reform, but in our view the discussions must include further consideration of Council Tax revaluation and options for ending the capping regime.

10. Returning to the proposals themselves, we understand that all business rates income (even the set aside) is to be returned to local government. We welcome this, but are concerned that much of the set aside is to be used to fund grants from other central government departments; grants that are already included within the control totals for those departments. This means that Government will be receiving a “windfall” because it will now be able to fund grants from business rates income that it previously committed to fund from other taxation streams.

11. One of the details of the proposals that causes us particular concern is in relation to safety nets, and the suggestion that protection might only be provided where retained income reduced more than 10% below the funding baseline. For a large authority like Leeds that 10% could be as much as £30 million. The settlement of appeals relating to the 2005 rating list, together with changes to the small business rate relief scheme, resulted in a reduced income for Leeds for 2010/11 compared to the original estimate on the NNDR1 return of £23.5 million. That reduction was met by the National NNDR Pool, but under the new arrangements it would impact directly upon the City Council and, because it is less than 10%, we would receive no protection from the safety net. The loss of such an amount would be extremely difficult to manage and would have a major effect upon services. It cannot be right to

expect local authorities to absorb such "shocks" particularly when they are completely outside of their control. We therefore urge minister to set the safety net at a more reasonable level of perhaps 1% or 2%.

12. A final concern is the extent to which the system relies on ministerial discretion. We accept that some degree of discretion is inevitable, but it appears that ministers will be responsible not just for overall funding levels, but for determining the set aside, police and fire authority funding, NHB estimates and levies and safety nets. Such extensive discretionary powers are unhealthy and could lead ministers open to accusations of political bias.

Responses to Main Consultation Paper Questions

Q1. What do you think the Government should consider in setting the baseline?

We are pleased that the Government wants to establish a fair starting point from which no authority would lose out in its ability to meet service needs. We agree that stability is important and major changes and turbulence should be avoided, but in setting the baseline the overriding consideration should be fairness, and we are not convinced that the 2012-13 Formula Grant allocations represent a fair starting point. (See our response to Q2, below)

Q2. Do you agree with the proposal to use the 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?

In our view, the problem with using the 2012-13 formula grant allocations is that those allocations have already resulted in many local authorities, including Leeds, losing out in their ability to meet service needs. In responding to the last Local Government Finance Settlement, we made strong representations about front-loading, failures to take population changes into account and Supporting People allocations. The Supporting People allocations, in particular, which resulted in Leeds losing over £10m a year (or about a third of our 2010-11 Supporting People funding) in both 2011-12 and 2012-13, have had a serious effect on our ability to meet service needs and call into question the fairness of the 2012-13 allocations. We would therefore urge Ministers to reconsider the 2012-13 Supporting People allocations as part of the Resource Review. (See also our response to TP1 Q12, below)

With regards to paragraphs 3.13 and 3.14, the Government's thinking appears to be more developed in Technical Paper 1. As we set out in our response to Q11 of that paper, we believe that the best way of securing widespread agreement to the proposals would be to ensure the underlying data is as accurate and up to date as possible. We therefore prefer the option to use updated data as set out in 3.14.

Q3. Do you agree with this proposed component of tariff and top up amounts as a way of re-balancing the system in year one?

Yes, the system of tariff and top-up appears to be an appropriate method of rebalancing funding allocations in year one.

Q4. Which option for setting the fixed tariff and top up amounts do you prefer and why?

This question highlights the potentially divisive effect of some of the proposals. Indexation would be better for top-up authorities but the flat-rate approach would be better for tariff authorities. The gearing effect means that under the flat rate option, the rewards for tariff authorities would escalate rapidly over time. However, if the tariff was indexed to the RPI then a risk exists for tariff authorities in the event that their business rates growth rate is below RPI.

Whichever option is chosen, care will be needed to ensure that the levy arrangements limit disproportionate rewards but also protect authorities suffering low or negative growth. (See our response to Q6).

Q5. Do you agree that the incentive effect would work as described?

As we have said in our introduction, we have grave doubts about the incentive effect of the proposals because so many factors influencing business rates growth are outside local authorities' control. Even where local authorities are fortunate enough to see economic growth, any incentive effect will be heavily dependent upon decisions taken about the many variables within the system, and the Government will need to be careful not to introduce any perverse incentives either within the system or through their own economic development activities. The incentive effect is likely to be further diluted by the apparent decision to cream off a pre-determined level of forecast growth for 2013-14 and 2014-15.

Q6. Do you agree with our proposal for a levy on disproportionate benefit, and why?

Yes, we believe that a levy on disproportionate benefit is essential in order to avoid unacceptably high gains in retained income accruing to authorities as a result of the gearing effect. The use of levy receipts to manage unforeseen negative volatility in other authorities' budgets seems a fair and equitable approach, but the design of the levy will be critical to achieving the correct balance between protecting less successful authorities whilst retaining an adequate incentive for growth.

Q7. Which option for calculating the levy do you prefer and why?

Our preferred option is the proportional levy because this appears the most equitable way of addressing the issue of disproportionate gains experienced as a result of gearing, while retaining the principle of increasing rewards for increasing business rates growth. The banded option also addresses the gearing issue to some extent; however, the bands would result in "cliff-edges" whereby some authorities could experience significant changes in income as a result of a marginal alteration in their performance. A flat rate levy would restrict growth in retained income; however, the

fact that the rate would be applied equally across authorities would mean that highly geared authorities could still experience disproportionately high increases in retained income.

Q8. What preference do you have for the size of the levy?

A balance needs to be struck in calculating the size of the levy between adequately rewarding growth and providing sufficient funds to provide protection for those authorities that suffer negative volatility and low growth. Without knowing the level of volatility against which protection is to be provided or what would constitute "low growth", it is difficult to suggest a preference for the size of the levy. We believe, however, that levy proceeds should be used primarily to protect against volatility and low growth; it is more important to protect authorities suffering low growth than to provide extra rewards for those that are already benefiting. If for any reason the levy fund was insufficient to cover the cost of safety nets, the Government must be prepared to provide extra funding from general taxation or reserves. (But see our response to Q12).

As we favour a proportionate levy, we would suggest a ratio of 1:1 to ensure that any given percentage rise in business rates growth can give rise to a corresponding rate of increase in retained income. Setting the levy ratio any higher would negate the ability of the levy to address disproportionate gains, while setting a lower ratio would reduce the incentive for growth.

Q9. Do you agree with this approach to deliver the Renewable Energy commitment?

We agree with the proposals to allow authorities to retain all of the business rates generated from new renewable projects. (See our responses to questions in Technical Paper 8).

Q10. 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)?**

We believe that it is essential that protection is provided for both i) and ii). Local valuation lists are subject to considerable volatility from year to year and it is of paramount importance that protection is provided against significant falls below the baseline. We note with concern that section 5.9 of Technical Paper 5 suggests that protection might only provided where retained income dropped more than 10% below the funding baseline. In our view, that could cause real hardship and would be completely unacceptable. The threshold should be set at a level to ensure that authorities are not left worse off by the scheme as a result of circumstances outside their control. In our view a threshold of 1% or 2% would be appropriate.

Q11. What should be the balance between offering strong protections and strongly incentivising growth?

As we have said in our introduction, we believe that the incentive effect of the scheme is limited because so many factors that influence business rates growth are outside the control of local authorities. For that reason we believe that the system should be balanced to provide strong protection to less economically successful areas and to limit the rewards of the small number of authorities that have exceptionally strong historic growth merely through an accident of their geography.

Q12. Which of the options for using any additional levy proceeds, above those required to fund the safety net, are you attracted to and why?

There will clearly be a need to maintain a levy reserve to cope with fluctuations from year to year. We believe that the levy should also be used to fund ongoing support to authorities that have experienced significant losses that take more than one year from which to recover. Any excess should be shared, on an annual basis, between authorities that have not contributed to the levy.

Q13. Are there any other ways you think we should consider using the levy proceeds?

No.

Q14. 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?

We agree that it will be necessary to adjust the tariff or top-up for each authority at the 2015 Revaluation to reset the system. However, paragraph 3.39 appears to imply that tariffs or top-ups would be adjusted so that retained income for an authority would be the same in the year after revaluation as it was in the year before. If that is the case, it would remove any incentive from growth for that first year.

Q15. Do you agree with this overall approach to managing transitional relief?

We are pleased that the Government does not intend to remove the protection afforded to businesses through transitional relief. We agree that local authorities have no control over the costs and surpluses arising from the transitional relief scheme and that transitional relief should be stripped out of the business rates retention scheme.

Q16. 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?

Rather than being optional, we believe that it is essential that tariffs and top-ups are reset for changing levels of service. Our concern is how those changes of service would be identified and how the reset would be calculated – presumably there would have to be a new assessment of need. The current Formula Grant system relies on a detailed assessment of need and resources, based on over a 100 indicators. In the

absence of the Formula Grant mechanism how would need be assessed? (See also our response to Q20.)

Q17. Should the timings of resets be fixed or subject to government decision?

We see merit in fixing the timing of resets in order to provide certainty and predictability. However, it may be prudent for Government to reserve powers to reset the system within the cycle in exceptional circumstances.

Q18. If fixed, what timescale do you think is appropriate?

A relatively long term period would offer an appropriate degree of security and give time for the rewards of growth to build up, but given the pace of change in local government more frequent resets - perhaps every five years to align with revaluations - will be essential.

Q19. What are the advantages and disadvantages of both partial and full resets? Which do you prefer?

On balance, we would prefer partial resets because they would allow the income from growth to be retained by the authorities that achieved that growth. However, there may be circumstance in which a full reset is preferable, in times of rapid demographic change, for example.

Q20. Do you agree that we should retain flexibility on whether a reset involves a new basis for assessing need?

Given the recent economic upheavals and the pace of demographic change, it is hard to think of circumstances where a reset would not require a new assessment of need, but as we said in our response to Q16, given that formula grant will have been dismantled, it is not clear what data would be used or what the mechanism would be.

Q21. Do you agree that pooling should be subject to the three criteria listed at paragraph 3.50 and why?

Yes, we agree that pooling should be voluntary and should be subject to the three criteria listed in paragraph 3.50.

Q22. What assurances on workability and governance should be required?

In our view, pooling would be better suited to areas where successful partnerships have already been established. Whilst there should be some flexibility about governance arrangements, areas wishing to form pools should already have mature structures in place with the capacity to drive forward cross-boundary economic development. Suitable structures could include city regions and LEPs.

Q23. How should pooling in two tier areas be managed? Should districts be permitted to form pools outside their country area subject to the consent of the county or should there be a fourth criterion stating that there should always be alignment?

Flexibility is the key here. As long as the members already have a track record of co-working and have suitable partnership structures in place, we believe that districts should be allowed to join pools outside their county area, provided that the agreement of the county can be secured. Mechanisms for sharing rewards should not be prescribed, but should be left to the members of the pool to decide.

Q24. Should there be further incentives for groups of authorities forming pools and, if so, what would form the most effective incentive?

If Government is serious about encouraging pooling, it must ensure that authorities forming a pool could not worse off whatever levy option is chosen, not just the banded option. Even with that guarantee, pooling might be much more attractive to an authority which is suffering low or negative growth than it would to an authority that is experiencing strong growth. Some sort of financial incentive would, therefore, be desirable. However, funding to provide that incentive would need to come from other sources to avoid disadvantaging authorities that, for whatever reason, were unable to join a pool. (See response to Q7 in Technical Paper 5)

Q25. Do you agree with these approaches to non-billing authorities?

We agree that the rewards of growth should be shared with county councils. We also agree that police and fire & rescue authorities have only very limited opportunities to influence local growth and that they should be funded by means of deductions from the forecast national business rates. We are concerned, however, that this reduces the funding available to other authorities and for this reason we welcome the proposed review of funding for police and fire & rescue authorities and the possibility that all police funding should come from the Home Office. (See our more detailed responses to Technical Paper 1, Q4 and to the questions in Technical Paper 3)

Q26. Do you agree this overall approach to funding the New Homes Bonus within the rates retention system?

Our major concern with this proposal is that New Homes Bonus funding is being provided from a "top slice" of the forecast national business rates. It is not new money, and it is not really a bonus, it is just a way of redistributing existing funding to reward local authorities that are successful in attracting housing investment, at the expense of those authorities that are less successful. To be a true bonus, NHB funding should not be top-sliced; it should be provided from other sources outside of the business rates retention scheme.

Q27. What do you think the mechanism for refunding surplus funding to local government should be?

Leaving aside the arguments put forward in our response to Q26, above, there appears to be a further threat to the incentive effect of NHB here. Care will be needed to ensure that the incentive element is retained. In other words, that

authorities receive more from encouraging new building than they do from having the "excess" returned to them. Rather than distributing the excess in proportion to baselines, it might be better to distribute it as an additional bonus for every new dwelling built, but even this would leave authorities competing amongst themselves for a share of a finite pot.

Q28. Do you agree that the current system of business rates reliefs should be maintained?

Yes, the current system of business rates reliefs operates satisfactorily and should be retained.

Q29. Which approach to Tax Increment Financing do you prefer and why?

We would prefer Option 2. Option 1 might give greater flexibility but, in reality, pressures on local authority budgets mean that they would be unlikely to secure agreement to fund large-scale infrastructure projects, which might only benefit part of their areas, from the proceeds of business rates growth. Local authorities would, of course, be free to limit the growth they use to fund the infrastructure to that arising in the defined area which would benefit, but under Option 1, that growth would be subject to the levy and taken into account in any reset.

In contrast, under Option 2, the whole of the business rates growth within the defined TIF area could be used to fund infrastructure developments within the area, and that income would be guaranteed for a fixed period of time. Although the income stream might be smaller, it would be stable and more certain and would be more likely to create the conditions for the TIF to flourish and drive forward the local economy.

We accept that under Option 2 the number of TIF schemes would need to be limited, but we do not see that as a disadvantage. We have always viewed TIF as a specialist solution for funding large-scale infrastructure improvements needed in areas that have great economic development and job creation opportunities but where conventional funding mechanisms have proved inadequate. We believe that Government involvement, through a business case approval process, would be the best way of ensuring that projects are viable and that they are in-line with national economic policy objectives.

Q30. Which approach do you consider will enable local authorities and developers to take maximum advantage of Tax Increment Financing?

We believe that Option 2 provides the best solution. (See our response to Q29.)

Q31. Would the risks to revenues from the levy and reset in option 1 limit the appetite for authorities to securitise growth revenues?

Yes. (See our response to Q29)

Q32. Do you agree that pooling could mitigate this risk?

Pooling could possibly mitigate the risk, but the problems of securing agreement to a TIF would be greater across a larger area, particularly where the authorities involved have different political complexions.

Q33. Do you agree that central government would need to limit the numbers of projects in option 2? How best might this work in practice?

We agree that numbers would need to be limited. (See our response to Q29.)

Responses to Technical Paper Questions

TP1 Q1: 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?

We are concerned that the calculation of the set aside and, indeed, the success of the whole system is so critically dependent upon the forecast business rates for 2014-15. If that forecast is too low, local government might receive greater rewards, but if the forecast is too high central government would retain the full set aside and local government would bear the full cost. As the risk falls entirely upon local government we would prefer the forecast business rates (and the set aside) to be determined by an independent body. The timing is important too. The forecast of 2014-15 national business rates will need to be made 18 months beforehand and experience shows that forecasts at both the local and national level can be inaccurate. Whether or not an independent forecast is thought appropriate provision needs to be made to allow the recalculation of the set aside figures once the actual 2014-15 business rates is known.

On a more general point, clarity is needed on exactly what other grants would be funded from the set aside.

TP1 Q2: 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?

It is difficult to comment on the proposed adjustment without having any indication as to its likely size. In order to make more informed comments, we would welcome exemplifications of adjustments and also of the set aside.

We are concerned that NHB funding is to be top-sliced from business rates. To be a true incentive, it is essential that NHB provides additional funding opportunities for local authorities. Indeed, the proposal to return surplus NHB funding to local authorities in proportion to their baseline funding levels seems to dilute the incentive effect still further, particularly for larger authorities like Leeds whose baseline funding will be relatively high.

TP1 Q3: Do you agree with the proposed approach for making an adjustment in the event of any functions being transferred to or from local authorities?

We agree with the proposed approach, but it essential that adjustments reflect the actual costs or benefits for individual authorities and are not averaged or applied proportionately.

TP1 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?

We agree with the proposed approach provided that other authorities are not disadvantaged. We accept that police and single purpose fire and rescue authorities are not able to influence business rates growth directly and that they should be excluded from any share of that growth. We are less certain about whether they should be protected in areas where the business rates tax base reduces from year to year. (See also our responses to questions 2 & 3 in Technical Paper 3). In our view, this proposal once again highlights one of the problems with the new system. Under the current arrangements police authorities are funded (at least in part) through an assessment of need and funding changes as that need changes over time. Under the new system that important link between funding and need will be lost.

TP1 Q5: 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 scheme within the 2014-15 expenditure control total?

We agree that no authority should lose out but are concerned that this proposal seems to be unnecessarily complex and would be difficult to explain to stakeholders. As the system would only be in place for two years (2013-14 and 2014-15) before having to be "reset" following the 1st April 2015 revaluation, why is it not possible to set baseline funding levels for 2013-14 and simply adjust them for 2014-15 to take account of reducing expenditure control totals? Tariffs and top-ups could then be adjusted very simply to allow authorities to benefit from business rates growth above an agreed threshold.

TP1 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?

Although we appreciate the arguments for stability, we can also see a strong case for using formula grant figures before damping. If it is to be successful going forward, it is important that the new system is fair at the outset. The figures before damping better reflect local authorities' true needs and resources (as measured through the current grant formulae) and would provide a much fairer starting point for the new system.

TP1 Q7: 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?

See response to Q8, below.

TP1 Q8: If not, which years should be used as the base position for floor damping in each of these calculations, and why?

As stated in our response to Q6, above, we believe that baseline funding levels should be calculated before damping. However, we concede that if funding levels are to be calculated after damping, the approach outlined in 5.17 and 5.18 would be the best way forward.

TP1 Q9: 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?

We agree that if this option is implemented, it would be appropriate to reduce formula grant for each tier of services according to its Spending Review total.

TP1 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?

The methodology proposed is complex and not easily understood. We would question whether such an arcane approach is really necessary. Would the financial effects on individual authorities be significantly different if a more simplistic approach, perhaps simply applying the percentages listed in section 5.21, was adopted? If the differences are significant, we would support the methodology described in annex B, albeit reluctantly.

TP1 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?

Updating the data sets would add to the complexity of the new system and may possibly divert attention from other aspects of the review. However, it is important that the starting point for the new system secures widespread agreement, and the best way of doing that is to ensure that the underlying data is as accurate and up to date as possible. We therefore agree that the population data sets should be updated. Although forward looking datasets may better reflect future cost pressures, the accuracy of current projections has been challenged and, as the aim is to create accurate baseline funding levels, it would seem to us to be preferable to use the population estimates which will incorporate the latest census data.

The fact that projections are used in the calculation of council tax bases is entirely irrelevant; the council tax base calculation is necessarily forward looking, the baseline funding calculation is to create an accurate baseline at a point in time.

Other datasets used in the calculation of formula grant should be updated where possible, so that the starting point for the new system is as accurate as it can be.

TP1 Q12: 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?

A number of local authorities had concerns about aspects of the tailored distribution. The Supporting People allocations, in particular, were controversial, and a number of authorities, including Leeds, made strong representations about the allocations to Ministers at the time of the 2011-12 Settlement. The issue has not gone away; the formula used in the calculation meant that Leeds lost £10.6m or 33% of our Supporting People funding in just one year. We therefore believe that it vital that the Supporting People allocations, at least, should be revised for 2012-13 and that the allocations for 2011-12 should be revisited.

TP1 Q13: If option two is implemented, do you think we should review the relative needs formula for concessionary travel?

See response to Q14, below.

TP1 Q14: Do you think we should review any of the other relative needs formulae? If so, which ones and why?

Although a review of the formulae would give an opportunity to correct any remaining inequalities or errors in the four-block model, such revisions could, in themselves, be divisive, and could prove a distraction to the more important goal of making the retention proposals workable. In any case, the business rates retention scheme effectively signals the end of the four-block model and the assessment of needs and resources, so there appears to be little point at this stage in devoting scarce resources to refining it.

TP1 Q15: If option two were implemented, do you think we should alter the balance between service demands and resources; and if so, how?

We do not believe that there is any point in altering the balance at this stage (for the same reasons set out in our response to Q14, above).

TP1 Q16: 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?

We believe that police and single purpose fire and rescue authorities have little influence on the level of business rates growth within their areas, so it would seem sensible to guarantee them funding allocations at the outset as suggested. We are however concerned that this seems to be in contradiction to the Council Tax Benefit consultation[3] in which it is suggested that the risks of the new CTB system should be shared with major precepting authorities.

[3] Localising Support for Council Tax in England, DCLG, July 2011

TP1 Q17: Do you agree with the proposed response for funding new burdens within the business rates retention scheme? If not, why?

We agree that new burdens should continue to be fully funded and should be funded as proposed via Section 31 grants or RSG between resets.

TP1 Q18: Do you agree with the proposed approach for dealing with boundary changes and mergers? If not, what alternative would you propose and why?

We agree that any boundary changes or mergers should only affect the authorities involved in those boundary changes/mergers. In the case of mergers we agree that the baseline funding levels, business rates baselines and, top-ups/tariffs of the authorities concerned should be added together as proposed.

TP1 Q19 Do you agree with the proposals on the future of Revenue Support Grant?

We believe that it would be a nonsense to maintain a legal requirement for a mandatory grant if it were to fall to zero, so we agree that the most appropriate way forward would be to make RSG discretionary rather than mandatory. We also agree that if RSG is paid it should be in the form of an unhypothecated grant.

TP2 Q1: 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*?

This question highlights one of the fundamental problems with the Government's proposals. The business rates baseline (and hence tariffs and top-ups) will be based on predictions of business rates income for 2014-15 made in the autumn of 2012, some 18 months before 2014-15 even starts. The adjustments for "reliefs and other items" would presumably have to be made using the data from the latest NNDR3 which would be even earlier, for 2011-12. Given the volatility of the rates income from year to year, we are concerned that this could lead to perverse results and some authorities being disadvantaged. We would welcome further, more detailed discussion on this proposal.

TP2 Q2: Do you agree with the proposed basis on which proportionate shares would be calculated?

Notwithstanding the reservations expressed in Q1, above, we would agree with the proposal to calculate proportionate shares using authority's gross yield reduced by the allowable deductions set out in section 4.5. We agree that transitional relief should be excluded from the calculation.

TP2 Q3: Which of the options – "spot", or "average" – do you believe would be the fairest means of determining each billing authority's business rates yield, upon which proportionate shares would be based?

In common with many authorities, we have found in recent years that our NNDR1 returns tend to overstate the business rates we actually collect, mainly because the

buoyancy factor allowed for previous years amendments has been unrealistic (at around 1% rather than the actual which has been nearer 5%; and because the NDR1s for 2010/11 & 2011/12 did not take into account amendments to the small business relief scheme which were announced after completion of the returns). Given this unpredictability, we do not believe that NNDR1 returns would be an appropriate basis for calculating business rates yield, so we do not favour the "spot" approach. The use of average outturn data from three years of NNDR3 returns is likely to provide a much more accurate basis for calculating proportionate shares.

TP2 Q4: 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?

The allowable deductions proposed are those familiar to local authorities from their NNDR3 returns. We agree that it would be appropriate to apply them as suggested. We also agree that a further deduction should be made for the uplift in business rates within Enterprise Zones, to reflect the fact that business rates growth within Enterprise Zones will be shared with other authorities within their Local Enterprise Partnerships. However, we are concerned that this could give rise to a dilemma for authorities that are hosting Enterprise Zones. There is a risk that authorities that focus on encouraging growth within "their" Enterprise Zones could lose out if, as a result, growth elsewhere in their areas is not as strong. In other words, they could be shifting the rewards of growth from their own authorities to their partners in the LEP. In times of rapid growth that might not be a concern, but in poorer market conditions the effect on an authority's finances could be significant.

We also understand from DCLG officials that any growth occurring in an Enterprise Zone during 2012-13 is not to be retained either by the LEP or by the hosting authority, but is to go direct to the Treasury. We would urge Ministers to reconsider this decision.

TP3 Q1: 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?

As a single-tier authority we have no strong views on how the business rates baseline should be split between county and district councils, but it appears that Option 2 (individually tailored shares) would better reflect local circumstances and allow the rewards of growth to be shared more equitably.

TP3 Q2: 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?

Police authorities will be able to do very little to influence business rates growth within their areas and, in the absence of any assessment of need, there seems to be very little alternative to making fixed funding allocations for 2013-14 and 2014-15. This will, at least, give police authorities some certainty of funding levels over the next three years. We agree that the way police authorities are funded should be

reviewed for the next Spending Review. (See also our response to question 4 in Technical Paper 1.)

TP3 Q3: 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 up to their *baseline funding* level?

See response to Q4, below:

TP3 Q4: 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's business rates baselines (pre-tier split), subject to any tariff or top-up required to bring them up 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?**

The arguments about the capacity to influence business rates growth seem to apply equally to fire and rescue authorities as they do to police authorities but we do not think that one set of fire and rescue authorities should be funded in a different manner than another. As it is difficult to see how fire and rescue responsibilities could be easily split from county authorities (at least in the short term), in our view the most equitable way forward would be to treat county and single purpose fire and rescue authorities in the same way and fund both groups through a percentage share.

TP4 Q1: Do you agree with the proposed approach for administering billing authorities' payments to central government?

We agree with the proposal for payments to be made over 24 instalments provided that the first instalment date continues to take into consideration the fact that payments from business rate payers are received during rather than at the beginning of April.

TP4 Q2: Do you agree with the proposed approach for administering billing authorities' payments to non-billing authorities?

As with Q1 we agree with the proposal subject to the timing of the first instalment, although this situation does not directly affect Leeds.

TP4 Q3: Do you agree with the proposals for year end reconciliation?

Although we have concerns regarding the inflexibility of the proposals in terms of movements in other aspects which determine the net collectable amount, e.g. empty property relief or reductions in rateable value, we agree with the proposal for the treatment of transitional arrangements via a year end reconciliation.

TP4 Q4: 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?

We agree with the proposal. It would be unreasonable for the billing authority to take the entire burden of an unforeseeable reduction in the in-year revenue.

TP4 Q5: 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?

It would be reasonable to allow charges to be made to payment schedules at quarterly intervals. Less frequently would not allow enough flexibility; more frequently could undermine the stability of the system for the non-billing authority.

TP4 Q6: 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?

As business rates forecasts can fluctuate on a daily basis due to changes in the rating list, etc. it would be unreasonable not to require a significant change before allowing a change in the payment instalments. We would suggest that a change of greater than 2% could be considered significant.

TP4 Q7: Do you agree with the proposed approach for administering payments to and from non-billing authorities?

We agree with the proposed approach, although it does not directly affect Leeds.

TP4 Q8: 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?

We agree with the proposals as they provide a degree of protection for authorities from the year-on-year volatility of the rating list.

TP5 Q1: Should tariffs and top ups be index-linked? Or should they be fixed in cash terms?

As we have said in our response to Q4 in the main consultation paper this issue is potentially divisive because one option favours tariff authorities and the other favours top-up authorities. As a tariff authority, we would benefit from fixing our tariff in cash terms but, even after applying levies, the rewards for some authorities from the fixed cash approach would still be unacceptably high. We therefore believe that the fairest approach would be to update tariffs and top ups in line with inflation.

TP5 Q2: Do you agree that a pool's tariff, or top up, should be the aggregate of the tariffs and top ups of its members?

Yes, this appears to be the fairest and most straightforward approach and would ensure that individual authorities and those in pools are treated in the same way.

TP5 Q3: Do you agree that the levy should apply to change in pre-levy income measured against the authority's baseline funding level?

Yes, applying the levy in this way provides a level of protection to authorities in the event of negative growth in business rates against the baseline funding level.

TP5 Q4: 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?

We prefer the proportional levy as this appears the most equitable way of limiting gains experienced as a result of gearing, while retaining an incentive element. The banded option also addresses the gearing issue to an extent; however, "cliff edges" between bands could cause authorities to experience significant changes in funding as a result of marginal changes in business rates growth. A flat rate levy would restrict growth in retained income; but would be applied equally across authorities and highly geared authorities could still experience disproportionately high increases in retained income.

As we do not favour the flat rate levy approach, we feel it would not be appropriate to express a preference for a particular flat levy rate.

TP5 Q5: 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 should be applied to each band?

As stated above, we do not favour the banded levy approach and do not feel it is appropriate to express a preference for levy rates within bands. However, should this option be chosen, bands should take account of gearing and be set to limit disproportionate rewards.

TP5 Q6: Under a proportional scheme, what is your view of the levy ratio that should be applied?

In order to retain an adequate incentive for business rates growth, the ratio should be set at 1:1 to ensure that any given percentage rise in business rates growth would give rise to a corresponding rate of increase in retained income. Setting the levy ratio any higher would reduce the ability of the levy to limit disproportionate gains, while setting a lower ratio would reduce the incentive for growth.

TP5 Q7: 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?

As we said in our response to Q24 of the main consultation paper, we believe that some sort of incentive would be essential if Government is serious about wanting authorities to join together to form pools. The different scenarios are difficult to model but, depending upon the RPI and other variables chosen, it appears that a pool could form that would not be subject to a levy, so an incentive by means of a lower levy rate or more favourable levy ratio may not always be appropriate. The important

point is that funding to provide the incentive should be provided from outside the business rates retention scheme so as to avoid disadvantaging authorities that are not members of a pool.

TP5 Q8: Do you agree that safety net payments should be triggered by changes in an authority's retained income?

Yes, safety net payments should be triggered when an authority suffers a decline in retained income of greater than a set percentage. However, as we pointed out in our response to Q10 in the main consultation paper, the suggestion in para 5.9 that authorities could manage year-on-year reductions of up to 10% is completely unrealistic. Such reductions, coming on top of the Spending Review cuts already suffered could have a catastrophic effect on services and would be completely unacceptable. A more manageable level would be 1% or 2%.

TP5 Q9: The main consultation document seeks views on whether there should be a safety net for annual changes in pre-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?

The annual safety net should be triggered at a low percentage change in annual income to avoid authorities having to manage significant falls in income that could arise as a result of circumstances completely outside their control, i.e. natural volatility in business rates activity. See response to Q9, above.

TP5 Q10: The main consultation document seeks views on whether there should be a safety net against absolute falls in income below an authority's baseline funding levels.
If so, what percentage below baseline should the safety net kick in?

The safety net should be triggered at a very low percentage fall in income below an authority's baseline funding level in order to ensure that authorities are not left worse off by the scheme as a result of circumstances outside their control. Given that the baseline funding for a large authority could be several hundred million pounds, even a small percentage fall, could have a significant effect on revenue budgets.(see response to Q6 of Technical Paper 6, below)

TP5 Q11 – Do you think that for the purposes of the baseline safety net, the baseline should be annually up-rated by RPI, or not?

Yes, in order to ensure that authorities do not suffer a fall in annual income below the baseline in real terms.

TP5 Q12 – 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?

It is essential that safety nets should provide an absolute guarantee of support of baseline income fell below a set percentage, and if the levy pot was insufficient, support would need to be provided from other sources outside the business rates retention scheme.

TP5 Q13 – Should safety net support be paid in year, or after a year end?

Safety net payments should be made as soon as possible on the basis of estimates of retained income. Any adjustments could be made after the year end.

TP5 Q14 – Do you agree that pools should be treated as single bodies?

Yes, we believe that pools should be treated as single entities for the purposes of calculating levies and safety nets.

TP6 Q1: Do you agree that some financial assistance should be provided to authorities for the effects of volatility?

Yes. In our view the problem of volatility will present a major challenge to the success of the proposals and it is essential that protection is provided to authorities that are suffering negative effects. It is also essential that protection is provided at the right level. As we have pointed out earlier a reduction in business rates of 10% for a large authority like Leeds could result in a loss of income of £30m or more which, coupled with cuts elsewhere, could have a catastrophic effect upon local services. Protection must, therefore, kick in at much lower levels than this – at 1% or 2% at the most.

TP6 Q2: Of the options set out in the paper, which do 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?

We agree that a safety net is the most appropriate option but, as outlined in our response to Q1, above, it is vital that the safety net is set at a level to provide real protection to those authorities who are experiencing negative growth. The safety net could be supplemented by a reserve, application-based, system to give additional protection to authorities who are experiencing particular financial pressures.

TP7 Q1: 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?

The way funding is reset at revaluations and at the start of Spending Review periods will be critical to the success or failure of the proposals. It is vital that retained income is not affected by revaluations, and we agree that adjustments to tariffs and top ups would be the best way to do this provided that the set aside, adjustments and levies are also reviewed.

It is equally vital that there is a fresh assessment of need at the time of each Spending Review, so that areas that are less economically buoyant do not spiral into long term decline.

TP7 Q2: 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?

We accept that it may be difficult to make adjustments for appeals but we are concerned about the effect this may have. For examplethe settlement of recent appeals in Leeds have led to a general reduction of 10% in the rateable values of office premises across Leeds city centre. If such a reduction was took place under the new system, it could have a major impact on our ability to provide services to the people of Leeds. It is therefore vital that local authorities are adequately protected through the safety net. It will also be important to ensure the Valuation Office Agency is adequately resourced so that valuations are accurate and the number of successful appeals is kept to a minimum.

TP7: Q3: Do you agree that the transitional relief scheme should be taken outside the main business rates retention scheme?

We agree that the transitional relief scheme could obscure any incentive effect of the new system and lead to perverse results. We therefore agree that transitional relief should be taken outside the main business rates retention scheme.

TP7 Q4: Do you agree with the Government's proposals for a system of *transitional adjustments*?

If transitional relief is taken outside the main business rates retention scheme, we see little alternative to the system of transitional adjustments proposed.

TP7 Q5: Do you agree that any deficit on transitional adjustments should be charged to the levy pot?

Our concern with this proposal is with regard to the effect that any deficit would have on the size of the levy pot and the effect that could have on funds available for safety nets. If the effect is likely to be small, it would be acceptable but, if it would have a significant effect, funding should be provided from elsewhere. Also what would happen if the transitional relief scheme ran at a surplus? In our view, any surpluses should be returned to local authorities in proportion to their funding baselines.

TP8 Q1: 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?

We agree that the renewable energy technologies listed in Chapter 3 should qualify for the purposes of the business rates retention scheme. A degree of flexibility is desirable here and we support the intention to allow developing technologies to be included in the future as they come on stream. As the proposals will make no difference to the operators' actual rates liability (just to whether the income is retained locally or not) we see no problem in defining a "new" project as one that is entered onto the rating list on or after 1st April 2013.

TP8 Q2: Do you agree that establishing a baseline of business rates 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?

We are not convinced that there is any need to establish a baseline from existing renewable energy projects and are not clear about what purpose it would serve. In our view, new renewable energy projects could be captured adequately by the Valuation Officer during the routine maintenance of the rating list. The rateable values of new renewable energy projects and the certified values of parts of hereditaments that include new renewable energy projects would be all that is needed to calculate the income to be retained locally.

TP8 Q3: Do you agree with the proposal to define "renewable energy projects" using, as a basis, the definition in previous business rates statutory instruments?

Yes, we agree that previous business rates statutory instruments would be a satisfactory starting point for the definition of renewable energy projects. However, some of the statutory instruments are now over 10 years old and the pace of technological change has been rapid, so it is important that the definitions are reviewed before the new system is introduced. It would also be desirable to incorporate a degree of flexibility to allow for future technological developments without having to make major revisions to the definitions.

TP8 Q4: Do you agree with the proposal for identifying qualifying business rates income from new renewable energy technologies installed on existing properties?

We agree that new renewable energy technologies installed on existing premises should be recognised under the scheme and that certification by the Valuation Officer would be a satisfactory method of identifying them.

TP8 Q5: Do you agree with the proposal that the business rates income from Energy and 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?

We agree with this proposal.

TP8 Q6: Do you agree with the proposal that the billing authority should be responsible for determining which properties qualify as a renewable energy project?

We believe that billing authorities are best placed to identify properties that qualify as new renewable energy projects and we agree that they should be responsible for doing so.

TP8 Q7: 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?

As a single-tier authority we have no strong views on this but, as county councils share responsibilities for the communities they serve, we believe they should share, albeit to a lesser extent, the rewards from renewable energy projects with their district counterparts. To achieve consistency, an 80/20 split between districts and counties (as used for the New Homes Bonus) seems appropriate.