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Business Rates Retention Consultation,
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Dear Sir,

Self Sufficient Local Government: 100% Business Rates Retention

This response to the consultation on the proposed 100% business rate retention is on behalf of Kent County Council (KCC). Kent is the largest shire area in the country with a population of around 1.5 million and over 640,000 households. This makes KCC the largest council responsible for services to more people than any other council in the country.

KCC welcomes the opportunity to comment on the 100% business rate proposals. We recognise that this consultation is to inform the primary legislation and much of the detail will emerge at a later date. We hope we will be given an opportunity to comment on the detailed arrangements as often these can have a more significant impact than the general principles. Accordingly this response focuses on the key issues of devolution, rewarding growth/sharing risk, local flexibility and accountability/accounting. We will be providing a separate response to the Call for Evidence on Needs and Redistribution.

KCC supports the principle of business rate retention. It is a long established principle that the proceeds from business rates should be used to fund local services. Local authority funding became increasingly centralised and complex throughout the 20th century and into 21st century. As a consequence far too much of a local authority's budget was reliant on central government core and specific grants. It is only recently that we have seen this trend start to reverse and 100% retention is a welcome further step in is direction.

Having welcomed this move we are concerned that the proposed retention has not been put into the context of the significant role that local authorities have played since 2010 in reducing the budget deficit. Over this period we have seen substantial reductions in central government grants at the same time as councils have faced rising spending demands/costs and have been

encouraged to freeze council tax/keep increases low. This has meant that authorities have had to make unprecedented year on year savings of around 10% per annum for several years. KCC has to date already delivered over £0.5bn of savings over this period.

Due to the nature of the financial challenge i.e. rising spending demands which are unfunded, this magnitude of savings is not immediately obvious from the council's published budget. KCC, along with many other authorities, would like to see the highest priority given to using 100% business rate retention to fund such spending demands/costs which arise in the future in the lead up to and post 100% business rate retention. We appreciate that this isn't strictly in line with the fiscal neutrality aim of retention but it would mean council budgets better reflect the rising spending demands/costs. The retention proposals as they currently stand seem to be more about further deficit reductions (by switching other grants to be funded from retained business rates) than genuine devolution and localism. We will return to this point in answers to the specific questions on devolution.

We are also concerned that post 100% rate retention that the additional funding available to local authorities through business rate growth will not be sufficient to meet continued rising demands and costs. These rising demands and costs arise form a number of reasons, largely unavoidable, including the impact of inflation and National Living Wage on the price of contracts and rising demands from an increasing and ageing population. These pressures are particularly severe in adults and children's social care. If authorities are to be self-sufficient and there are no central grants to top-up funding this means authorities will continue to have to find further savings to balance their budgets. Eventually the scope for savings will run out and authorities would be forced to cut statutory services. We strongly urge ministers to leave scope in the primary legislation to be able to top-up the funding for local government through central grant in response to rising spending demands and costs.

We would also like to urge ministers that it is essential that the funding system is simplified. The current system is so complex, and has so many historical quirks hardwired into it, that it becomes virtually impossible to explain or understand the wide variations in funding that ensue. Intuitively this feels wrong and leads to a general sense of injustice. We firmly believe that a simpler system can also be more generally accepted as fairer. Having said this we recognise that adequately reflected spending needs in the funding system should be the prime objective. As a consequence we would support the formula being sufficiently complex to achieve this, especially where the complexity adds value and results in a funding system which better matches the needs. This will be particularly where such complexity is in the interests of all local authorities i.e.we not support complexity that reflects local choices or adds perverse incentives.

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

As already mentioned in the introduction to this response we are concerned that many of the proposed items identified to be funded out of 100% rates retention are existing grants already paid to local government e.g. public health, early years, etc. Effectively this is simply passing additional risk to local government, particularly for grants like early years where funding is allocated according to actual participation and take-up of early years offer. It is unclear whether this funding will be un-ring-fenced and whether local authorities will have any control over demand for and/or cost of services. If not local authorities could find themselves in the same situation we currently face with concessionary bus fares where funding has been devolved but the statutory entitlement remains and authorities can do nothing to manage demand or cost. This would severely compromise core principle 4. This is not devolution as it merely passes the administration of prescribed national schemes down to local government. We urge the government to clarify whether if these grants are to be funded out of retained business rates that funding will be un-ring-fenced and authorities will have more freedom to determine their own local arrangements according to local circumstances and potential business rate income.

We would like to comment on each of the proposed areas for devolution in detail:

Attendance Allowance (AA)
This proposed devolution is by far our biggest concern. It seems to be implied that devolution is consistent with local authority social care functions. In fact in many cases local authority social care deals with a very different client base to AA, not least because local authority social care is means tested and AA isn't. Furthermore, local authority social care is all spent on the assessment and provision of care services (including those clients opting to receive a cash payment who still have to spend this money to meet agreed outcomes and needs). AA payments do not need to be spent on care. Unless this changes under the proposals this would be very confusing for social care clients and AA recipients.

It is still not clear from the paper whether it is merely the administration of AA is being proposed or whether authorities will also be able to determine their own policy towards AA eligibility and payments. The paper suggests that payments for existing claimants will be protected but makes no mention of new claimants. This needs urgent clarification, and in particular the extent to which AA payments for individuals can be protected when funded from a volatile income source such as business rates. Some of the reasons for this are set out below.

Currently the reach of AA is far greater than adult social care. This is despite the fact that the criteria are broadly the same as local authority (Care Act) eligibility criteria. The receipt of AA (which bolsters the income for people with disabilities/chronic illness), with the knock on impact on other benefits, plays a key role in keeping people out of the formal local authority care system. There is a risk that if AA is not protected many more people would come into contact with the local authority and be assessed for formal social care. This could undermine the "Promoting Wellbeing" strand of social care as well increasing local authority assessment workload. Either way, this leaves local

authorities with a dilemma and the need to meet spending demands (which are likely to increase due to an ageing population) from a volatile funding stream. This could place authorities in an extremely difficult financial position.

AA enables recipients to higher levels of pension credit and other means-tested benefits and exemptions. If AA is not protected it would not only result in a direct loss of income for recipients but also the loss of these other benefits. This would not only exacerbate the risks outlined above but would also mean those entering formal local authority care would have lower income and thus contribute less towards the cost of their care.

AA helps self-funders pay for the cost of their care. If it is not protected this could have a significant impact on care providers, and in turn put a pressure on prices for local authority clients.

There will also be a potential knock-on effect on carers. Many carers rely on Carers Allowance and related benefits if they have had to give up work or reduce hours. Receipt of Attendance Allowance is one of the main gateway benefits needed to qualify for Carers Allowance. Any reduction in the numbers of people able to claim Carers Allowance will affect their ability to provide care and may lead many more carers/the people they care for to seek help from local authorities.

Ultimately we feel that AA proposals fail to meet three of the four core principles (1, 2 & 4), and as a result is not appropriate to be funded from retained business rates. The demand is likely to increase due to an ageing population and the need to protect AA (and the knock on consequences to local authority social care if it is not) would put undue strain on local authority budgets. The current arrangements provide an appropriate balance of risk between local authorities and central government, the proposals would shift all this risk to local authorities.

Early Years (EY)
As we have already identified we are concerned that transferring the funding for existing local authority grants is not devolution unless these are un-ring-fenced and allow local authorities greater flexibility. Devolution of this grant could be fruitful if it enables us to tailor early year's services to better meet local needs and maintain and enhance outcomes-focussed commissioning.

The funding for EY is currently included within the Dedicated Schools Grant (DSG) and any risk/opportunity from over or under spending remains in DSG. The EY sub block within DSG is based on a termly count of actual participation by 3 and 4 year olds. In common with schools DSG, the EY amount per pupil has remained the same for the last 6 years. This has put financial pressure on early years' providers who have had to increase top-up fees for additional hours over and above the 15 hour statutory entitlement. This situation cannot endure forever and eventually the pupil rates would have to increase (not least because providers will experience additional cost pressures through the introduction of the National Living Wage). Transferring funding to business rates will inevitably transfer this pressure to increase the hourly rate onto local authorities.

The government has recently launched a consultation to make changes to the DSG to introduce a national formula. A separate EY consultation has also been launched. There are already concerns that the increase in statutory entitlement from 15 hours to 30 hours has not been adequately funded and that the proposed national formula will do little to address this. Ensuring that there is sufficient capacity of high quality places in the childcare market based on current funding prediction is extremely challenging. There is a risk that transferring EY funding to business rates transfers this risk of underfunding. This is totally inconsistent with the four core principles.

If funding for early years is to be transferred to business rates it is essential that these underfunding risks are identified and adequately taken into account within the overall quantum. It would not be appropriate to transfer these risks to individual authorities. Furthermore, if funding for EY is to be transferred to business rates there will need to be an adequate mechanism to adjust funding for changes in pupil numbers and participation rates. This could not be resolved through whatever reset mechanisms are finally agreed as these would be far too infrequent. Failure to adequately adjust could leave local authorities too exposed to demographic factors with insufficient business rate income to meet demand.

Public Health

In principle funding public health from retained business rates has some appeal. Furthermore, public health does seem to better fit the four core principles than some of the other options presented e.g. a general improvement in health should support drive for economic growth. Ever since the responsibility for public health transferred to local authorities we have campaigned to have the ring-fencing of funding to be removed. If the transfer to business rates includes the un-ring-fencing this would be welcome. We believe there are many opportunities for improved integration between public health and other public services which the ring-fencing precludes from achieving.

Having said that funding from retained business rates has some appeal we are concerned that public health inequalities still remain. We would need to see more detail how these inequalities would be reflected in the baseline and how there would not be a perverse incentive not to tackle these inequalities in order to secure a larger baseline in future.

We are also concerned that changes in business rates may not reflect changing public health needs and the risk of declining business rate income in some areas could coincide with rising public health needs.

Improved Better Care Fund (iBCF)

Our response is based on the presumption that this funding is already part of the local government finance settlement and as such is un-ring-fenced and local authorities are not accountable to the department for health over its use. If so, effectively this is already funded from the 50% central share of rates, and therefore funding from 100% retention could be viewed as little change. Consequently we do not have any significant concerns with this proposal, although we do have two issues which need to be addressed prior to any transfer.

Firstly we only have indicative allocations for iBCF for 2017-18 to 2019-20. These are based on the social care relative needs formula within the old Formula Grant. We have consistently challenged that the relative needs formula did not adequately reflect needs in shire areas (particularly for social care) and this has to be addressed before funding is transferred. It is essential that the baseline transferred via the iBCF is based on an accepted methodology.

Secondly we are concerned that having developed an acceptable methodology that this baseline is updated periodically. All the evidence is that needs are growing in social care due to a combination of demographic and market factors. We are particularly concerned that business rate growth is unlikely to keep pace with these changes and that the biggest increase in social care needs could be in areas with the lowest business rate growth. Consequently we would like to see more frequent resets for social care elements of funding.

Revenue Support Grant (RSG)

As with iBCF this is already funded from the 50% central share and therefore this is no significant change. However, we wish to repeat our opposition to the changes made to RSG distribution in 2016-17 which were introduced at very short notice with no prior consultation or notification. We believe these changes had a detrimental impact on the RSG for some authorities, particularly authorities which for a variety of reasons have set higher council tax rates. We do not think it appropriate that authorities should be penalised through the grant system for the effect of local democratic choices. We also remain concerned about the impact of the negative RSG allocations for some authorities in 2018-19 and 2019-20 arising from the changes made to the distribution of grant in 2016-17 which came with no prior consultation or notification. Reversing these negative amounts should be a priority from the additional quantum available from 100% business rate retention.

We are also concerned that all the individual elements of RSG were merged in the 2016-17 settlement with reductions based on the totality of grant and council tax revenues. This did not afford any protection for individual elements within RSG. We believe some elements of RSG should be protected from reductions as was the case prior to the 2016-17 changes.

Finally as we have already commented we continue to have concerns about the previous distribution methodology in the old Formula Grant and other grants. These methodologies have effectively been crystallised into the current arrangements without adequate redress of our concerns. We would like to see these concerns considered before a flawed methodology is hard-wired into the baselines for business rate retention by default.

Independent Living Fund (ILF)

This funding is needed for the ongoing support for protected clients following the closure of the ILF. We are unconvinced that this should be funded from retained business rates and think it should remain as a separate ring-fenced

grant. Our main reason for this is that a separate grant can more accurately take account of different attrition rates in individual authorities.

We accept that the responsibility for new clients is now the responsibility of the local authority within the current business rate/RSG/council tax funding arrangements. In an ideal world we would integrate the protected ILF funding within this but we cannot see how this is possible without reflecting the different attrition rates.

Youth Justice
This is a fairly insignificant amount in comparison to the overall quantum from retained business rates. However, we feel devolution of this grant to be funded from retained business rates may be beneficial, provided the money can be used flexibly to better meet the needs of young offenders. In particular we feel that this would provide opportunities to embrace innovative ways of working and methods of service delivery.

However, the Ministry of Justice contribution to Youth Justice Boards has been reduced significantly in recent years. The remand budget was devolved to local authorities in 2013 although it was insufficient to cover the full costs of delivering the additional responsibilities. Therefore, we are wary that youth justice grant could also be devolved with insufficient resources available from business rates to meet new responsibilities. This would put additional pressure on already stretched services and may lead to difficulty in providing high quality youth justice and non-custodial provision.

We are also conscious that the Charlie Taylor Review, which is due to be published imminently, is likely to make a series of recommendations about youth justice funding arrangements e.g. potentially devolving the Youth Justice Grant to the DCLG. We would want to ensure that any arrangements agreed under the devolved business rates proposals would dovetail with these recommendations.

Greater London Authority Transport Grant
In theory using business rates to fund transport infrastructure is a much better fit to the four core principles than any of the other proposals. Indeed there is a long and rich history of using business rates to fund local infrastructure. However, we are concerned that London already has a superior transport infrastructure than anywhere else in the UK, and that this effectively would mean a greater share of the business rate yield would be retained in London. Business rate retention should be an opportunity to improve transport infrastructure across the country and not just in London.

In Kent we have tried to protect local transport infrastructure and reduce congestion through providing subsidies to bus companies to run socially necessary bus routes, and we are the only county council that offers subsidised home to school transport to all children aged 11-15 through the Young Person's Travel Pass. As our central funding reduces we will find it increasingly difficult to maintain these services. The fact that we have funded these from local sources should not be any different the GLA Transport Grant and we would like consideration to be given to include local transport schemes in business rate retention as well as GLA Transport Grant. This

could be achieved by including the local funding in an authority's baseline for business rate retention which would better ensure that we can continue to provide these essential transport services.

Rural Services Delivery Grant
This does not apply to KCC but since it is part of the local government finance settlement in the same way as RSG and iBCF the same principles should apply that it's not unreasonable to transfer this to business rates.

Local Council Tax Support Administration Subsidy and Housing Benefit Pensioner Administration Subsidy
These apply to lower tier authorities and thus in a two tier areas their views should carry most weight. KCC fully supports the work and effort made by districts councils to maximise the council tax base and collect as much as possible from those in receipt of council tax support discounts under local reduction schemes. Since the majority of council tax is collected on behalf of major precepting authorities it is essential that lower tier councils in two tier areas are adequately funded for council tax support administration. We would like to see adequate safeguards if this funding were to be included in business rate retention in order to avoid any detrimental impact on the county council's share of the council tax base.

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

We fully support the four principles set out in the consultation which should guide the functions to be devolved under 100% business rate retention. As covered in our response to question 1 we are concerned that some of the grants/responsibilities proposed to be devolved are not consistent with these principles. We believe it would be much better if functions that that directly contribute to business growth and development were devolved. In broad terms, infrastructure development, business support and adult skills and training fulfil these criteria, whereas the demand-led people services (social and welfare services) do not fit well.

Below, we set out examples of the sort of responsibilities that we believe could be devolved to 'historic county' level, some of these are identified in the consultation paper as functions which could be devolved to combined authorities.

- *Local Growth Fund (LGF)* – there should be a block allocation of LGF funds down to historic county level, based on the proportion of England's overall housing growth in each area. Devolution of LGF should not just be restricted to Mayoral Combined Authorities. This would simplify the management of LGF and remove the need for central Government to spend resources approving individual projects. We would envisage the Skills Capital Funding continuing to be part of the (devolved) LGF.
- *Specific Government funds to unlock development* (such as the loan products managed by the Homes & Communities Agency)

- *Highway Maintenance* – Devolving some of the budgets managed by Highways England through a Key Route Network.
- *16-19 funding from the Education Funding Agency* - This funding is currently allocated according to a formula based on student numbers, adjusted for subject and area costs. This should be devolved to county-level authorities to commission according to local economic demand, involving strong local business voices in the commissioning process.
- *Adult Skills Budget* - This is currently administered by the Skills Funding Agency and supports learning provision primarily for people aged 19-23 undertaking Level 1 and 2 English and Maths and Vocational courses. This too could be commissioned taking into account local economic demand and specific community needs, as for the 16-19 funding. The new Adult Education Budget is intended to be linked with local economic need and be focused on provision which cannot otherwise be paid for by employers and learners, and the Government has already indicated a willingness to make this available via block grant as part of devolution agreements.
- *Careers information, advice and guidance* – Funding and provision is currently piecemeal and confusing. In addition to services provided by the National Careers Service, the nationally-funded Careers Enterprise Service seeks separately to promote employer engagement with schools, while Jobcentre Plus also now has a remit to deliver careers advice services. This is overly complicated. It is obvious that the task of linking local schools with local employers to provide information about local career opportunities should be managed locally. When the contract for the Careers Enterprise Company comes to an end, the devolution of the funding associated with it should be devolved, and integrated over time with local commissioning of other nationally-funded careers services.
- *Apprenticeship Grant for Employers* - This supports businesses to recruit people aged 16-24 through the apprenticeship programme, where they would not otherwise be able to do so. This funding should be devolved directly to local authorities and funded from retained business rates. This would allow greater flexibility on eligibility requirements, enabling grants to be focused on small employers within priority sectors or working in activities where there is evidence of high skills demand. It would also provide businesses with a direct service from local authorities in return for some of the business rates they pay.

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

We recognise that some functions would better to be devolved to combined authority level. In particular the functions we have identified in response to question 2 we have already suggested would be better devolved to “historic county level” in shire areas. These are similar to the items identified in the consultation paper and therefore we generally agree with the types of functions which could be included in pooled budgets for combined authorities.

The grant funding provided through devolution deals listed in the consultation would be appropriate for pooling at the combined authority level for those areas which have devolution deals and combined authority areas. However, on a point of principle, we do not believe greater fiscal autonomy should be granted to areas that have Mayoral Combined Authorities and the presumption throughout much of the consultation that a two-tier devolution arrangement between areas with and without a Mayoral Combined Authority is both unfair and impractical. There is no reason those grants listed or indeed other grants, cannot be pooled across all areas without the need for new and artificial governance structures.

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

Given the intention is to move the local government sector to a self-financing model through full rate retention the broad policy objective of funding devolution deals from retained business rates is understandable. However, there is considerable tension between achieving this and how it can be fairly applied, how the interests of those areas without devolution deals are protected and the impact on the redistribution effect such an approach would have. Consequently we urge ministers to carefully consider the full implications of funding devolution deals from retained business rates to ensure devolution deal and non-devolution deal areas are treated equitably. These deals are a voluntary arrangement; having a devolution deal (which is subject to ministerial discretion and not within an area's direct control) should not provide significant advantage, or perhaps better put, a significant disadvantage to those areas that do not.

Funding devolution deals from retained business rates should mean that the funding comes from the business rate income levied within the devolution deal area. It should not come from the business rate income from non-devolution deal areas. We presume devolution deal authorities would have these additional devolved responsibilities included within their assessed need, and that most areas with devolution deals are metropolitan urban areas that receive top-ups. If so, this would effectively mean that devolution commitments will not be funded from within the devolved area, but through additional redistribution from areas that do not benefit directly from the devolution deal. This would be fundamentally unfair and undermine the stated position that rate retention should minimise the need for redistribution, as it would likely increase it.

We accept (as does the wider public) the need for financial redistribution to support the delivery of public services in poorer or less economically vibrant parts of the country. However, we do take exception to the funding of additional responsibilities agreed through devolution deals which are not within any revised agreed needs-based formula, or indeed are not available to their own communities simply because they do not have a devolution deal. Therefore, 100% business rate retention and bespoke devolution deals make difficult bedfellows, and this consultation does not set out how these tensions will be managed.

The likelihood is that the Government will continue with some form of bespoke devolution deals over the course of this parliament. If so, our preference would be that devolved commitments must be funded from a ring-fenced amount within the business raised in the local area and not subject to redistribution via tariffs and top-ups. This would better incentivise areas with devolution deals to successfully grow rates to fund their deal commitments, and would be fairer across the sector. Alternatively devolution deals would have to be funded by separate grant arrangements outside business rate retention.

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

Yes, we fully support the principle of new burdens doctrine and this being funded via separate Section 31 grants prior to the transparent transfer of funds into the mainstream local authority funding arrangements (previously formula grant). Indeed, we would argue the risk of increased volatility in local authority budgets following business rate retention requires the new burdens doctrine to be more rigorously and broadly applied.

The new burdens doctrine itself and the associated guidance are fundamentally sound. However, our experience is that the application of the doctrine across departments is too sporadic. Too many new burdens assessments are undertaken with limited or cursory evidence of the true cost on local authorities. Neither is it clear departments appreciate that changes to existing duties and powers constitute a new burden and therefore should be assessed and, if necessary, funded. For example, we believe the changes made to the RSG methodology for 2016-17 are inconsistent with the doctrine. These changes were made with no prior consultation or notification. Previously new burdens funding which had been transferred into the main grant could be protected as it was individually identifiable within RSG. The changes made in 2016-17 have combined all these individual elements into a single amount which has then been reduced pro rata to each council's overall RSG and council tax yield. There is no evidence that new burdens funding has been protected and therefore becomes a pressure on council tax. Furthermore the inclusion of council tax yields within the RSG calculation means those councils which have used local democratic authority to raise additional council tax have faced larger RSG reductions. This puts further pressure on council tax and thus is incompatible with the doctrine. We would also like to highlight that the funding to support the 2015 implementation of the Care Act was also transferred into the existing business rate retention/RSG arrangements in 2016-17 with no protection for the RSG element. This is contrary to statements made when the Care Act was being debated that the impact on local authorities would be fully funded.

We are concerned that 100% rate retention leaves open the scope to transfer further unfunded burdens onto local authorities. This too would be inconsistent with the doctrine. We contend that new burdens

assessments should be independently tested for rigour and robustness before being signed off and the new burdens doctrine should be extended to cover non-departmental government bodies.

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

We agree with principle that the baseline should be set periodically rather than every year. We also agree that this period should be on a fixed cycle rather than chosen by the Government according to pre-determined indicators, we concur that this would be too uncertain. Option b with a full reset including all achieved growth every 20 years is not appropriate as it leaves too long between resets (particularly if there are still defects hard-wired into the arrangements). This option should be rejected.

This leaves options for a full or partial reset more frequently say around every 5 years (to coincide with revaluations?). Generally we think the partial reset has more appeal, it would enable to the reset to focus on the most significant/material changes in need (this is likely to be adult social care) and those areas with the greatest changes in circumstances (particularly areas with high population growth which may not have been matched by business rate growth). The ability to retain some of the business rate growth beyond the reset period also has some appeal compared to a full reset

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

We strongly believe in the principle of local authority's retaining business rate growth. We fully support the incentivisation argument. We also believe that the current arrangements place too much emphasis on redistribution to meet "need" and identifying the drivers for need had become overly complex and yet still do not adequately reflect need in all types of authority. We have already outlined in our desire for simplification. We believe that for a number of services the only redistribution which is necessary is to ensure most authorities start with the same level of funding per head of population (or other simple measures for relevant services such as km of highway, number of households, etc.) and only where appropriate weighted by secondary cost factors such as deprivation, health, sparsity, etc. There will always be outliers where this is not the case but these should be treated as such rather than designing a complex system in order to accommodate their often unique circumstances. If authorities feel they need to spend more they should raise this through business rate growth, council tax or other income sources. Similarly authorities which face a decline in business rates will either have to spend less or raise additional income from other sources. We believe this will result in a simpler, more efficient and arguably fairer system rather than trying to replicate every authority's needs in a high level of detail.

However, business rate growth should not be over exaggerated. Growth rates in recent years have been relatively modest. Business rate growth has certainly not kept pace with rising demand for/cost of local authority services.

Therefore, even under the current 50% retention arrangements, local authorities have had to make substantial savings in to counter the effect of this rising demand/cost, reductions in central government funding, business rate growth/decline and restrictions on the ability to raise council tax. We are under no illusions that 100% business rate retention with no core central funding will be a panacea for this challenge of rising demand/cost which is not matched by rising income. This is especially the case for adult social care services where demands and expectations are rising at an increasing rate.

It is also worth noting that the upward impact of new businesses is offset by the downward impact of business closures and appeals. Business rate growth is also significantly affected by mandatory reliefs. Many of these are factors outside local authority control.

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

A partial reset should take account of changes in the main cost drivers which are outside the local authority's control. Similarly it should take account of business rate/council tax changes outside the local authority control e.g. changes to mandatory reliefs. The partial reset should not take account of those things either within local authority control e.g. waste recycling rates, granting of planning permission, etc., or arising from local democratic decisions e.g. discretionary spending, council tax rates, business rate multiplier reductions etc. Having outlined these principles we would still be looking to keep the resets relatively simple without the use of complex sub formulae or collection of additional data.

We also think the partial reset should focus on those services where demand/cost is most volatile. For upper tier councils social care is by far the most significant and most volatile area of spending. Spending trends will often be inverse proportion to tax trends and resets will need to be frequent enough to take this into account.

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

We accept that under a business rate retention scheme tariffs and top-ups work reasonably well as a method of redistribution. We fully support the principle of redistribution i.e. the transfer of resources from high wealth/low need areas to low wealth/high need areas. We remain concerned that the current way these are identified are inadequate and take far too much account of historical funding distributions and local decisions. In particular the use of regression analysis and transitional damping has had the effect of reinforcing previous funding distributions rather than a genuine redistribution according to wealth/needs. The result is that ensuing redistribution does not adequately reflect spending needs/ability to raise income, particularly for demand led services such as social care. Until the devolution responsibilities and the

needs led redistribution have been agreed it is difficult to estimate what the baseline will look like and therefore what tariffs and top-ups will be required.

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

Partially at least. It could be argued that revaluations based on “market rental” value include both national economic conditions and local influence. If it is possible we think that authorities should be rewarded/incentivised beyond the reset period for the impact of local influence/decisions. However, we accept this may be difficult to ascertain on a consistent basis and that a partial adjustment may have to be set on an arbitrary/average basis rather than detailed evaluation. A partial adjustment is better than full adjustment and better fits the desired incentivisation.

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

No. We do not agree that Mayoral Combined Authority areas should have additional powers and responsibilities over retained business rates. Mayoral Combined Authorities are voluntary arrangements which are controversial in non-metropolitan areas where many local councils, including KCC, do not believe the directly-elected mayoral model is appropriate. As such, additional powers and incentives for Mayoral Combined Authorities over rate retention will create a further structural divide in local government between metropolitan and non-metropolitan areas, when the intention of full rate retention is to provide universal devolution to all local councils. Any proposal to provide additional powers to Mayoral Combined Authorities is not directly related to full rate retention, but vicariously to place further pressure on local authority areas to accept a Mayoral Combined Authority. Additional powers and incentives made available to Mayoral Combined Authorities should be made available to all areas, including two-tier county areas like Kent, where we have strong and existing partnerships arrangements that have already successfully managed the 50% retention scheme and pooling arrangements.

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

As an upper tier authority the 20% split with a significant top-up has provided a more secure funding base for demand led services. As we have already identified neither the annual uplift nor the share of business rate growth has kept pace with these demands, but this would have been the case anyway with a greater % share and lower top-up. We are concerned that 20% understates the role the upper tier authority plays in promoting economic growth.

We are concerned about the 80% share for lower tier councils. We are particularly concerned that this leaves them over exposed to the risk of business rate decline through business failure or appeals. This exposure would be less of a risk for upper tier authorities due to both the much larger budgets and that risks can be smoothed out by growth across the wider geographical area.

We believe there is a strong case for increasing the upper tier share (and reducing the lower tier share) together with a reassessment of tariffs and top-ups. The balance will depend on the outcome of which additional responsibilities are finally devolved under 100% retention to ensure risks are balanced i.e. we would not want to see upper tier councils taking on significant additional risks from devolution at the same time as a significant transfer of risk from business rate volatility due to changing the split.

Notwithstanding earlier points made about the need for additional functions and responsibilities to be closely linked to services which support business and further business rate growth, the system for full business rate retention must also reflect the distribution of responsibilities and services in two-tier areas. Simply scaling up the current arrangements for the 50% retention scheme whereby the split of 40% to Districts, 9% to Counties and 1% to Fire Authorities is scaled up so that the 100% scheme provides 80% to Districts, 18% to County Councils and 2% to Fire Authorities would be unacceptable. In two-tier areas, county councils account for approximately 80% of all local government spend, and as the social care authority for both adults and children, county councils face need and demographic pressures on their services that are not felt as sharply by District Councils. As such, the current split in rate distribution must change to more adequately and fairly reflect the demands and pressures faced on our services. We would not, however, suggest there should be a straight reversal of the split towards counties, given the disproportionate effect this would have on District Council budgets. What the right split should be must be based on a clear evidence base and, in the first instance, a matter for negotiation between counties and districts (through representative bodies such as DCN, CCN and their equivalent treasury groups).

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

No. Central to the Policing and Crime Bill is that Police and Crime Commissioners (PCCs) can take on responsibility for fire and rescue authorities where a local case is made and there is local agreement. This approach reflects that in many local areas, including Kent, the fire and rescue service and police force already collaborate on a range of operational areas, and the benefit from integration with PCCs is more limited than perhaps anticipated. Like the points made earlier regarding devolution to Mayoral Combined Authorities, this proposal is less about making full retention work, than using the scheme as a mechanism to promote alternative policy objectives. Removing fire from the business rate retention altogether would signal that there is an expectation that PCCs should take responsibility for fire,

when the stated government position is this is a matter for local determination in the first instance. Such mixed messages need to be avoided.

Furthermore, we are concerned that in order to meet the fiscal neutrality requirement taking the funding for fire authorities out of business rate retention would increase the quantum which would need to be devolved to local government. This could prove problematic to find sufficient functions to devolve bearing in mind our reservations about some of the significant elements proposed to be devolved to meet the existing estimated quantum. We would not want to see inappropriate functions devolved to local authorities just to enable the transfer of fire out of business rate retention.

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

We have already commented on the aspects of business rate growth which are outside of a local authority's control e.g. mandatory discounts/reliefs, appeals, etc. We believe these are things which authorities should have greater control over in order to incentivise growth. The overall tax base is only part of the equation which results in the final business rate tax yield.

We also believe that local authorities should have more flexibility to increase the multiplier, or at least have other mechanisms to protect/increase income to offset reductions. The current business rate retention proposals are based on retention of growth in the tax base although as we have already responded historically growth has not been that great and can be mitigated by factors outside the local authority control.

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

We are concerned that local lists include some properties which are part of national infrastructure and decisions about future expansion or closure are taken at a national level. This would include major power stations, ports, airports, etc. By far the largest single hereditament in Kent is the Channel Tunnel with a rateable value of £15.4m. There is an argument that such premises should be on the central list although any changes in rates for these are likely to have a very long lead time and thus can be planned. Often the most risky properties are industrial premises which can close at much shorter notice and finding alternative use can prove difficult.

We are also concerned about the impact on local lists of national policy decisions. For example should all the remaining schools in Kent be transferred to academies this would reduce the business rates yield by £5.2m due to the application of mandatory charitable relief. Similarly should the policy in relation to hospital trusts change this could result in a substantial loss of business rate income. With 100% retention we would like to see the

national quantum and individual tariffs and top-ups adjusted for any national policy impact on the business rate yield so that other local authority services do not suffer the consequences. The only mitigation for the impact of academies under the current 50% retention is if it pushes an authority into the safety net. We do not think this is sufficient safeguard.

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

We can see the appeal of area based lists for combined authorities but we are concerned how this would work in practice e.g. would the combined authority be responsible for collection from the area list, how would it be determined which properties are transferred to the list, etc. Assessing the riskier properties is not straightforward as referred to above

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

The impact of appeals is a significant issue. We appreciate the efforts the government is considering to make the appeals system work better. Currently there is very little risk to the appellant and all the risk is borne by local and central government. This leads to a very volatile tax yield. It is disappointing that no consideration has been given of managing some of the risk through the multiplier. The multiplier is reset as part of the revaluation every 5 years but is not reset in between following appeals against the revaluation. This is a fundamental flaw and should be addressed before 100% retention is set (and effectively all the risk passed to local authorities).

We have formed a pool with 10 district authorities and the fire authority. One of the aims of the pool is to better manage the risk from appeals/business closures over a wider geographical area. Consequently, we certainly would support a wider pooling arrangement within 100% business rate retention (albeit we still contend some of the risk should be borne by business rate tax payers through the multiplier as outlined above). This pool could operate at a combined authority level or a national level. We are concerned that a national pool may be overly complicated and thus a wider area combined authority pool may be easier to manage and be more flexible.

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

Better information and intelligence sharing between local authorities and the Valuation Office Agency (VOA) would certainly help in as much as we could make better local provision to reflect both tax base growth and/or decline.

This would not negate the impact but would make it more predictable. We still believe that not resetting the multiplier following appeals is a fundamental flaw, which if addressed would help all authorities.

We are also concerned that once an authority gets close to or drops into the safety net there is a disincentive to manage any further risks as the safety net picks up all the consequences.

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

We have been operating a business rate pool for two years. Having previously commented that we support pooling there is a danger that without the incentive of being better able to benefit from growth pools will become unattractive. To include a pool safety net (which presumably would be funded by pool members) could make membership even less attractive, especially to those authorities at low risk of requiring the safety. Without the right mix of authorities pools become pointless.

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

This is difficult to answer until we know what additional functions are to be delegated and therefore the risks from a volatile funding stream. We do believe the current safety net threshold is too low, particularly if a greater proportion of the business rate yield is to be transferred to upper tier authorities. The impact of falling just short of the threshold can be catastrophic. Furthermore there is a perverse incentive once in the safety net not to grow back out. This needs to be tackled as well as reviewing the threshold once we know which additional functions are to be devolved.

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

We would certainly not want a situation in two tier areas where the decision of individual councils can have a significant impact on the income for other tiers. We already have this with council tax reduction schemes where it is the lower tier authority which decides on local schemes, but the majority of the impact is on the tax yield of the upper tier authorities. In Kent we are fortunate that we work closely across the tiers but this remains a risk that the lower tier authority chooses a generous reduction scheme.

We are not sure that splitting the power will work very well. This would require authorities to identify the impact of individual council decisions on business rates bills in a similar way we show council tax decisions on council tax bills. In general we think the decision should be left to the most local level (districts in two tier areas and boroughs in London). The upper tier authorities (counties/fire and GLA) should have the power to veto proposals and/or propose alternatives (which in turn the lower tier authority would have the

power to veto). This would ensure there is a clear accountability for decisions but any decision would have to be supported across the tiers. Inevitably the costs of reducing the multiplier would have to be borne according to the proportionate split.

We remain concerned that varying the multiplier is a rather blunt instrument. We would rather this was combined with greater flexibility to vary discounts and reliefs so that business rate reductions can be better targeted.

Question 22: What are your views on how decisions are taken to reduce the multiplier and the local discount?

As we have already responded above we believe the power to reduce the multiplier is too blunt as a tool and we are not convinced that existing discretions over discounts provide sufficient means to target business rate reductions most effectively. We believe reductions could be better targeted if local authorities were also given the ability to vary mandatory discounts and reliefs.

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

This should be left to local discretion without any centrally imposed limits (other than obviously authorities could not exceed the national multiplier). If there are concerns that the resulting increases would be unmanageable for businesses then legislation could place a requirement on local authorities to consider the affordability of increasing the multiplier after it has been reduced (and guidance issued on the economic and other factors which authorities should take into account in their considerations).

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

As we have already stated we are not convinced that having the power to reduce the multiplier is very effective. It is too blunt to be able to target reductions to particular localities, types of business or businesses facing particular difficulties. Whilst there are some local discretionary powers, these tend to only be used in very exceptional circumstances. We remain disappointed that there is very little, if any, ability to increase business rates for some to pay for reductions for others. This was a feature of the devolution of council tax support which worked well.

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

Individual authorities should have the power the set their own thresholds for raising a levy. Local authorities are best placed with the knowledge of their local economies and which businesses are best placed to help pay for and

benefit from the sort of infrastructure which a levy would support. One of the criticisms of the current supplementary power, and we would argue a contributory factor why this power isn't used, are the imposed thresholds restricting the levy to larger premises.

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

We do not agree with there being different powers for an infrastructure levy. As we have already responded in question 11 we cannot see the case for Mayoral Combined Authorities having any additional powers under the business rates arrangement compared to other authorities. The business rate retention arrangements should not be used as a mechanism to progress other policy objectives.

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

We do not think it appropriate that the LEP should take on executive powers to approve a levy. The LEP should be statutory consultees but should not be approvers. The existing infrastructure levy powers set out the consultation and ballot requirements for individual proposals and we consider these arrangements should be followed by all authorities irrespective of whether they have chosen to have an elected Mayor.

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

We agree that the duration of any levy should be set out in the initial prospectus. As with the response to question 27 above we do not think there should be any different arrangements for Mayoral Combined Authorities than any other authority.

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

We agree that the purposes of the levy should be clearly defined and limited to infrastructure development. We think the purposes for the existing Business Rates Supplements are sufficient and there is no need for different infrastructure levy arrangements for Mayoral Combined Authorities.

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

As with previous responses we do not think there should be any different powers for Mayoral Combined Authorities. We think it would be simpler to raise multiple levies covering different projects but agree that the combined

effect of these levies should be capped to 2p in £ i.e. the same as the current Business Rate Supplementary powers.

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

As we have already stated we cannot see the case for different infrastructure levy arrangements in Mayoral Combined Authorities and other authorities. If there is to be a separate arrangement it should mirror the existing Business Rates Supplementary power and be clear than any authority (or group of authorities) can only use one of the powers and the over effect of ant levies will be no more than 2p in the £

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

We have fully supported multi-year settlements in the past as a way of increasing certainty for local authorities. We are concerned that 100% business rate retention could result in funding being less certain as authorities become more self-sufficient and reliant on the funds raised locally. In particular we are concerned that demand for both existing and new responsibilities could move in the opposite direction to local tax yields. Even with a safety net this could leave authorities having to hold more in reserves to manage variations.

We are also concerned that local authorities do not have full control over business rates and variations can arise outside their control e.g. mandatory reliefs, impact of appeals, etc. This can add to the uncertainty and should be recognised through appropriate share of risk. Consequently we can still see a role for continuation of some grants including multi-year settlements for these.

In terms of accountability there should be a greater onus on local authorities to explain to local tax payers (both business rates and council tax) what their money is spent on and the extent to which it arises from local decisions as opposed to meeting statutory obligations.

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

This question depends upon what additional responsibilities end up being devolved. As we have previously identified if the devolution merely means handing down the administration of national schemes, with very little scope to make local changes, it is very difficult to be accountable. True accountability would allow local authorities greater flexibility to increase local taxation to support local spending priorities where this is agreed. Currently this flexibility does not exist, nor is it proposed through business rate retention.

We do not believe that mayoral combined authorities should be the only model of devolved powers to local government or demonstrate improved accountability. Local members are accountable to the electorate as is the governing administration of each local authority. Local areas should have the ability to choose the most appropriate format of local governance without in-built incentives/disincentives in the funding arrangements for any particular choice.

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

We think collection fund accounting arrangements should continue. The declaration of estimated and actual tax yields is a transparent mechanism. We are concerned about the rise in council tax collection fund surpluses since the transfer of council tax support to local schemes. This has made forecasting the tax yield less certain. We have already commented on the volatility of business rates and in particular the impact of factors outside of local authority controls e.g. mandatory discounts/reliefs, appeals, etc. These will impact on collection fund balances and we can see some merit in identifying the impact of factors within and outside local authority control separately.

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

We support the principle of setting a balanced budget and KCC takes this very seriously. We have set and delivered a balanced budget in each of the last 16 years. We are concerned that the current concept of a net budget requirement leading ultimately to a council tax requirement is flawed. In particular at the time the budget is set some funding is still uncertain and thus the council tax requirement does not in itself represent certainty of a balanced budget. Furthermore, the ability for an authority to raise council tax is effectively capped through the referendum requirements. We have consistently challenged both previous capping regimes and the current referendum arrangements as significant obstacles to setting a balanced budget. We believe that authorities should assess the certainty of estimates as part of the balanced budget requirement.

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

We agree that some form of reporting will still be required but the current forms should be reviewed if they require data which is no longer required or relevant. In terms of the transparency and timeliness of this data collection we believe the views of lower tier authorities should influence the response in

two tier areas as these are the councils who will have to compile and submit the returns.

We hope that you find our responses helpful. KCC is keen to continue to help the government to develop the arrangements as we believe we are close to be a “typical” shire area with many issues and challenges in common with shire areas elsewhere across the country. We have found it difficult to give a full response to all the issues due to the uncertainty around some of the proposals. We hope we will be given further opportunity to comment on the detailed arrangements as these uncertainties are resolved.
Yours Faithfully

Name
Job Title
Department