The Local Government and Rating Bill 1996/97 [Bill 2 of 1996/97]: Local Government in Rural Areas

Research Paper 96/98

1 November 1996

The *Local Government and Rating Bill* is principally concerned with implementing proposals contained in the rural white paper **Rural England** [Cm 3016] and the Scottish and Welsh rural white papers [Cm 3041, 3180]. It would introduce a scheme of rate relief for village shops and post offices in England, Scotland and Wales [part I]. Parish and community councils in England and Wales would be given new powers to help prevent crime and to provide community transport [part III]. New procedures would be established for creating and consulting parish councils in England [part II].

The Bill also contains two non-domestic rating measures which were not proposed in the rural white papers, namely the removal of crown exemption and the exemption from rates liability of sporting rights.

This paper also considers some of the proposals concerning local government in the English rural white paper which do not need primary legislation. These include Government proposals for rural planning policy and a review of the weight which is given to sparsity in calculating the Standard Spending Assessment.

Edward Wood
Home Affairs Section

House of Commons Library

Introduction and Summary

Most of the provisions in this Bill stem from commitments made in one or more of the rural white papers, **Rural England** [Cm 3016, October 1995], **Rural Scotland, people, prosperity and partnership** [Cm 3041, December 1995] and **A Working Countryside for Wales** [Cm 3180, March 1996].

Part I of the Bill would would introduce a scheme of rate relief for village shops and post offices in England, Scotland and Wales. Mandatory relief would be available for small post offices and general stores which were in villages of 3,000 people or less in rural areas. In addition, a shop and/or post office would have to be the only shop or the only post office in the village in order to qualify. Qualifying businesses would have 50% of their rates bills remitted. District and unitary councils would also have discretion to increase rates relief to 100% for such businesses.

Discretionary relief would also be available for shops and post offices which did not qualify for mandatory relief but were in rural villages of 3,000 people or less and which were of benefit to the community. Central government would fund 100% of the cost of the mandatory relief sheme and 75% of the cost of any discretionary relief given. The paper also describes two existing rate relief schemes which may help village shops: transitional relief and hardship relief.

Part I also contains two non-domestic rating measures which were not proposed in the rural white papers, namely the removal of crown exemption in England, Scotland and Wales and the exemption from rates liability of sporting rights in England and Wales (sporting rights have been exempt from rates in Scotland since April 1995).

Under Part III of the Bill parish and community councils in England and Wales would be given new powers to help prevent crime and to provide community transport. The new powers would enable parish councils to install CCTV schemes if they wished.

Part II would establish a new procedure for creating parish councils in England. This would restore the power of district councils to carry out district reviews, and would also enable the Secretary of State for the Environment to create parishes in response to local petitions. Part II would also create a new framework for county, parish and unitary councils to consult with parish councils on matters designated by the Secretary of State.

This paper also considers some of the proposals concerning local government in the English rural white paper which do not need primary legislation. These include Government proposals for rural planning policy and a review of the weight which is given to sparsity in calculating the Standard Spending Assessment.

Contents

contents continued overleaf...

---

[1] Supplied by Philippa Carling, Business & Transport Section

[2] Supplied by Christopher Barclay, Science & Environment Section

I Business Rates

A. Background: The Uniform Business Rate

In April 1990, domestic rates were replaced by the community charge and non-domestic rates were removed from the control of local authorities, under the *Local Government Finance Act 1988*. Valuations of non-domestic properties remained the responsibility of the Inland Revenue (the Valuation Office, which carries out the valuations, has now become a next steps agency). The power to set the rate in the pound moved from local to central government. A single rate, known as the multiplier, is set for the whole of England. A separate multiplier is set for Wales. The uniform business rate has applied in Scotland since 1995; here, the same multiplier as in England is used.

The basic rates bill is calculated by multiplying the rateable value or RV (ie. the valuation) of the property by the multiplier. Transitional adjustments may be made if the basic bill has changed significantly since the previous valuation (see below).

In a year in which there is no revaluation, the Government cannot raise the multiplier by more than the rate of inflation which applied in September of the previous financial year. In a year in which a revaluation does take place, the Government recalculates the multiplier to ensure that the potential yield from non-domestic rates in England or Wales as a whole remains constant in real terms, taking account of all of the changes in rateable value which have taken place across the country. The multiplier for the forthcoming financial year is announced by the Chancellor in the budget speach.

The revenue from non-domestic rates which is collected by local authorities is passed to the Government which redistributes this money to local authorities on the basis of adult population. Thus, the taxbase in an authority (the total rateable value of non-domestic property) has no bearing on the amount of income the authority receives from the business rate.

B. Village Shops and Business Rates

1. Background

The rural white papers in England, Scotland and Wales point out the importance of village shops to village life and observe that in recent years the number of village shops has declined markedly:[3]

The Nature of the Village Shop

The village shop is often the focal point of a small community and frequently provides a lifeline for members of the community who are unable to get to town on a regular basis. It often acts as post office, newsagent and grocers; it may sell books and videos or take in dry cleaning. The entrepreneurial shopkeeper can provide a range of goods and services in a location where they would otherwise be unavailable. Loss of the village shop can therefore be a serious blow to village life.

Recent Trends

The number of retail outlets in Great Britain has declined from 577,000 in 1961 to about 319,000 in 1992. This decline has particularly affected village shops and small retail outlets in town centres, although there has been an increase in farm shops.

This decline is attributable to a broader change in lifestyles. More people now own cars, more women go to work and consumers demand more sophisticated products. People are less likely to use the local greengrocer or the butcher on a daily basis to shop for food. They often prefer to drive to a supermarket once a week to choose from a much wider range of goods. Prices are likely to be lower there too.

The Government states that it has taken steps to protect village shops through **Planning Policy Guidance Notes 6 and 7**: for example, PPG 6, Town Centres and Retail Developments,[4] insists that local authorities have regard to the possible impact on village shops of proposed new retail developments.

The Government acknowledges, however, that "many rural shopkeepers feel that the burden of non-domestic rates is a significant threat to their continued viability". The white paper quotes research commissioned by the Department of the Environment which showed that although business rate bills are small in relation to total turnover, they impose "a more

---

3 Cm 3106, p88

4 Latest version issued 20.6.96

substantial burden" on the smallest businesses, particularly small shops.[5] The study found that rates constituted a dramatically higher percentage of profit for firms with a turnover of less than £100,000:[6]

Impact of Rates Based on Notional Rates Costs Base: all Principal Trading Companies			
	Rates % of turnover[1]	Rates as % of overheads	Rates as % of profit[2]
Total	3.1	5.7	19.0
Turnover			
<£50K	7.7	13.7	35.9
£50k-99.9k	5.5	10.3	31.8
£100k-499.9k	2.5	5.2	17.2
£500-1.9m	1.4	3.7	15.9
£2m-9.9m	1.8	3.4	16.8
£10m-49.9m	1.3	3.2	13.6
£50m-£999.9m	1.4	3.1	16.4
£1 bn or more	0.7	3.0	3.3

[1] English & Welsh turnover only
[2] Base: PTCs who made any operating profit (84%)

In recent months the small business lobby has expressed an interest in the introduction of a banding system for business rates, in order to relieve the rates burden on small businesses. See for example:

- **Uniform Business Rate (UBR): Redressing the Balance - A Proposal for Reform**, Federation of Small Businesses, 1996; and

- **Fairer Business Rates**, Bernard Jenkin MP, the Conservative Backbench Committee on Smaller Businesses, 1996.

---

[5] The Impact of Rates on Businesses: an analysis of the impact of non-domestic rates costs on different types of businesses. IFF Research Ltd/DOE, 1995.
[6] p.6

The banding proposals in these documents are not identical to the council tax banding system, where properties are assigned to wide valuation bands rather than given a precise value. Instead the proposals would take the rateable values arrived at by the Valuation Office (or, in Scotland, the Assessor), assign them to bands and give a percentage reduction on the bill, on a sliding scale, for properties within the lower bands. Mr Jenkin's pamphlet also proposes, as an alternative way of assisting small businesses, a flat rate exemption scheme. Under the scheme, properties with rateable values under a given level (£2,500 is suggested) would be completely exempt from rates. For larger properties, the amount attributable to the first £2,500 in rateable value would be subtracted from the rates bill. The Government is understood to be considering such options at present.

Returning to village shops, the white paper concludes:[7]

> We see no case for subsidising the general run of shops which fail to attract sufficient custom to remain viable. However, the small general store or post office in a rural village has a special social function. It often provides an invaluable, and irreplaceable, service for local people without cars or ready access to public transport. Its demise would be a severe blow to the community.
>
> We therefore intend to introduce, at a suitable legislative opportunity, a new rate relief scheme targeted on general stores and post offices in villages.

2. Existing Forms of Rate Relief Available to Small Businesses

Two existing forms of rate relief are, potentially, of particular benefit to small businesses, including small shops. Transitional relief is available for ratepayers who would otherwise suffer large increases as a result of the five-yearly revaluations which were introduced along with the national non-domestic rate. In addition, relief is available, at the discretion of the local authority, for ratepayers who would otherwise suffer "hardship".

i. Transitional Relief

Transitional arrangements (also known as transitional relief or TR) were introduced in 1990 and again in 1995[8] to cushion the blow for businesses which lost out as a result of the revaluations in those years. The transitional

---

7 p.89

8 *Non-Domestic Rating (Chargeable Amounts) Regulations 1994* [SI 1994/3279]

arrangements work by comparing the basic bill in a given year with the actual bill from the previous year and making adjustments accordingly. In 1996/7, increases in non-domestic rates bills were limited to 7.5% (in real terms) for properties with a rateable value (RV) of £10,000 or more, 5% for smaller properties and 2.5% for small mixed-use (residential/business) properties. Businesses may have benefited from transitional relief after the 1995 revaluation if (a) they had a large increase in RV or (b) they had not yet reached their full rates liability because of the transitional arrangements for 1990-1995.

The transitional arrangements are financed in part by making firms which stand to gain from the 1995 revaluation receive their rates reductions more slowly. In 1996/7, real terms rates reductions on larger properties were limited to 5%; for smaller properties a maximum real terms reduction of 10% was permitted. It is the Government's intention to phase in progressively rates decreases which have been capped by the transitional arrangements.

Transitional Arrangements: Maximum real terms increases in rates each year from 1996/7 to 1999/2000

Larger properties (RV of £10,000 or more)	Smaller properties (RV of less than £10,000)	Small mixed-use properties (RV of less than £10,000)
7.5%	5%	2.5%

Transitional Arrangements: Maximum real terms decreases in rates in each year from 1995/6 to 1999/2000

	Larger properties (RV of £10,000 or more)	Smaller properties (RV of less than £10,000)
1995/6	5%	10%
1996/7	5%	10%
1997/8	15%	20%
1998/9	30%	35%
1999/2000	30%	35%

ii. Hardship Relief

Under section 49 of the *Local Government Act 1988* a billing authority in England or Wales may reduce or remit the rates bill faced by any ratepayer, including businesses, subject to the following conditions:

a) the ratepayer would sustain hardship if the authority did not do so; and

b) it is reasonable for the authority to do so, having regard to the interests of persons liable to pay council tax set by it.

Section 156 of the *Local Government etc. (Scotland) Act 1994* introduced parallel provision for Scotland.[9]

The word *hardship* is not defined in the *1988 Act,* and local authorities have had to rely on caselaw arising from similar provision under the *General Rate Act 1967* [Schedule 1, para 3A].[10] The Bayliss report called for a statutory definition of hardship to help authorities decide whether or not to give relief.[11]

The second condition for granting hardship relief concerns a council's duty to consider the interests of its council taxpayers in exercising its discretionary powers. A Practice Note issued by the DoE[12] contains guidance on this point:

> 75% of the cost of any reduction or remittance of rates can be offset against an authority's payment into the national non-domestic rate pool: 25% must be borne locally and met from the authority's General Fund;
>
> The 'interests' of council taxpayers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village;

---

9 By inserting a new section, s25A, into the *Local Government (Scotland) Act 1966*

10 See, for example, *R v Liverpool City Council, ex parte Windsor Securities* [1979] R A 159; and *Wakefleld Metropolitan District Council v Huzminor Investment Developments Ltd* [1989] R V R 108

11 Royal Institution of Chartered Surveyors (RICS): National Committee on Rating. **Improving the Rating System**, 1996, pp 32-3

12 *Non-Domestic Rates: Discretionary Rate Relief* August 1990 para 6(3)(iv-vi)

> Where the granting of relief would have an adverse effect on the financial interests of taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to taxpayers.

The guidance points out that 25% of the cost of rate relief must be borne locally. As local authorities have no power to spread such a cost amongst other non-domestic ratepayers, the extensive use of section 49 powers would probably lead to increases in the council tax or reductions in existing services. The Environment Secretary John Gummer announced in the local government finance statement on 30 November 1995[13] that local authorities' contribution to hardship relief would not in future count towards their capping totals. This means that authorities spending at their capping limits will not have to divert funds from other spending commitments in order to give relief; the change was intended to encourage them to give more relief where businesses face difficulties. Nevertheless, councils may still be reluctant to give s49 relief on a wider scale because of the political implications of raising council taxes in order to do so.

It should also be noted that the reduction or remission of rates under section 49 is entirely at the discretion of the local authority. There is no question of ratepayers having a right to relief if they satisfy the relevant conditions. On the other hand a council should not decide in advance that it will *never* give relief (or that it will always give relief) as the Practice Note points out:[14]

> Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief: each case should be considered on its own merits.
>
> Any such blanket policy would be open to judicial review on the grounds that the council had fettered its discretion and was therefore acting outside its powers *(ultra vires).* A council must also be seen to be acting reasonably in turning down an application for relief.

A *DoE Press Notice* of 18 May 1992[15] commended a formal policy adopted by Test Valley District Council giving officers delegated powers to approve reductions in rates bills where hardship would otherwise result and where community chargepayers' interests would be adversely affected by loss of amenity.

In February 1992, a Federation of Small Businesses press notice[16] gave details of a survey of 25 authorities: of these, only one had given official notice to non-domestic ratepayers of the availability of relief under section 49. The FSB has campaigned for the law to be changed to require local authorities to advertise on rates bills the fact that relief is available, and has

---

13 HC Deb Vol 267, c1337

14 op cit, para 6.3(i)

15 339/92 "John Redwood highlights relief for businesses"

16 "Town halls hide UBR lifebelts during the storm" 4.2.92

blamed the difficulty some businesses have found in getting relief on the discretionary nature of the scheme.[17]

During the first year of the new system, section 49 powers were not used extensively but in England their use has picked up since then. Nevertheless the £2.6 million remitted by local authorities in England in 1995-96 is minute compared to the annual non-domestic rates income in that country of £12 billion.

Total section 49 hardship relief given by local authorities[18]

	England	Wales
1990-91	£32,000	£1,450
1991-92	£187,000	£960
1992-93	£1,011,000	£45,600
1993-94	£1,909,000	£18,400
1994-95	£2,308,000	£910
1995-96	£2,649,000 *	£20,127 *

* latest available figure which may go up slightly when returns from remaining authorities are received

The rural white paper contained a commitment to reviewing the operation of s49 hardship relief:[19]

> The policies and practices of individual authorities seem to vary greatly. The total amount of hardship relief given is very small and many local authorities in rural areas give none at all. We therefore intend to review the way authorities are operating the scheme now, identify examples of good practice and issue fresh guidance to secure a more consistent approach. This will again emphasise the importance for authorities of having clear local policies and procedures on hardship relief, making them widely known and explaining the reasons for the decisions they reach.

---

17 *Guardian* 28.6.93, "Uniform rate hardship relief seen as a sham"

18 Source: DoE/Welsh Office. Figures on the level of hardship relief awarded in Scotland since 1995 were not available.

19 Cm 3016, p 89. See also the Welsh white paper, Cm 3180, p11

3. Rate Relief for Village Shops in England, Scotland and Wales

Proposals for a new rate relief scheme specifically for village shops appeared in a DoE consultation paper issued on 8 May 1996.[20] Papers containing similar proposals were issued by the Welsh Office on 13.5.96 and by the Scottish Office on 7.6.96.

The consultation paper registers the Government's concern that hardship relief is only available to village shops and post offices after they are in financial difficulty, when it may already be too late to prevent them closing [para 2.6]. It therefore proposes a special scheme to reduce the rates burden on village shops and post offices which does not depend on the individual ratepayer having to demonstrate hardship. A "twin track" approach is proposed:

1. A mandatory scheme would give certain shopkeepers a statutory entitlement to 50% rate relief.

2. A further discretionary element would allow local authorities to provide top-up relief up to 100% to those shopkeepers in receipt of mandatory relief, and up to 100% relief to other rural shops and businesses which were important for the maintenance of village life [paras 3.2-3].

Mandatory relief would be available for small post offices and general stores (ie. those with a rateable value of £5,000 or less) which were in settlements of 3,000 people or less in rural areas. In addition, a shop and/or post office would have to be the only post office or the only general store in the settlement [para 4.1]. Local authorities would have a duty to prepare and complile lists of small rural settlements in order to identify shops which qualified for rate relief [para 6.3]. "Rural areas", for the purposes of these lists, would be defined by the Secretary of State by secondary legislation [paras 5.3-4].

Discretionary relief would be available, subject to the discretion of the billing authority,[21] to any shop or post office which qualified for mandatory relief [para 9.1]. The council would also be able to grant discretionary relief to shops and other businesses which were in a rural area in a settlement of 3,000 people or less and were "of benefit to the community and whose loss would detrimentally affect the quality of village life" [para 9.2]. As with the current scheme for hardship relief, a council which proposed to grant relief would have to have regard to the interests of local council tax payers, given that 25% of the cost of giving discretionary relief would fall upon the authority [paras 9.8, 11.2]. Billing authorities would be encouraged to consult with parish councils and any other bodies representative of the communities in question before making a decision on whether to grant relief, but the final decision would be for the billing authorities alone [para 10.3].

---

[20] Rate Relief for Village Shops: a consultation paper linked to the Rural White Paper "Rural England". All references below to specific paragraphs are to the English consultation paper.

[21] the relevant district or unitary council

These proposals would be implemented in England and Wales by **Clause 1 and Schedule 1** of the current Bill. A parallel scheme in Scotland would be introduced by **Clause 5 and Schedule 2**. The Government estimates that the cost to central Government of the combined schemes would be around £15m in England and Wales and £2m in Scotland.[22]

B. Other Changes to the Non-Domestic Rating System

1. Sporting Rights (England and Wales)

Under the *Local Government Finance Act 1988*, sporting rights (hunting, shooting and fishing rights) are rateable separately when they are "severed from the occupation of the land on which the right is exercisable" [s64(4)(d)]. For example, where the owner of land which is used for agricultural and sporting purposes lets the land to a tenant but retains the sporting rights for his own use, the tenant would not have to pay rates (as agricultural land is exempt) but the sporting rights would be assessed separately and the owner would be liable to pay rates on those rights.[23]

The *Local Government etc. (Scotland) Act 1994* [s151] made sporting rights in Scotland exempt from rates. The then Secretary of State said in a written answer on 3.11.93:[24]

> It has long been recognised that a far greater range of subjects consisting of sporting rights are liable for non-domestic rates in Scotland than in England or Wales. I propose to recitfy this anomaly by introducing a provision in the forthcoming Local Government Reform Bill to exclude sporting rights with effect from 1995, when other subjects will be revalued.

Clause 2 of the current Bill would bring the situation in England and Wales in line with that in Scotland. Around £5 million per annum in non-domestic rates income would be lost as a result of this measure.[25]

---

22 Sources: DoE; Explanatory and Financial Memorandum to the Bill

23 A full account of the current position of sporting rights is given in Ryde on Rating and the Council Tax, looseleaf, Vol I, part C, chapter 5

24 HC Deb Vol 231 c 242W

25 Source: DoE

2. Crown Property in England, Scotland and Wales

The provisions described below do not stem from the rural white papers and are not targeted specifically on rural areas. The Department of the Environment and the Welsh Office issued a joint consultation paper on 27 August 1996 entitled *Removal of the Exemption of Government Property from Non-Domestic Rates.* A similar paper was issued in Scotland. The DoE paper observed:

> It is a general presumption at common law that the Crown is not bound by statute unless the contrary is expressly stated. It became well established under the Poor Relief Act 1601 that the Crown was not liable to be rated; and, broadly, this has remained the position under subsequent rating legislation [para 2.1]

Crown exemption generally applies to property occupied for the purposes of central Government, the Royal palaces and parks, and to other property occupied (or, in the case of empty property, owned by) servants of the Crown. It does not apply in most cases to public corporations. A fuller account of the properties subject to Crown exemption from rates is given in the consultation paper. The paper notes that the exemption currently applies to about 9,000 properties in England and Wales, with a total rateable value of £1.185 billion [para 2.6].

The consultation paper points out that it has been Government policy since at least 1874 that property occupied for the public service should make contributions in lieu of rates on the same basis as if they were rateable. The main elements of the contributions in lieu (CILOR) system are set out in paragraph 2.7.

The Government proposes in the paper to seek an early opportunity to provide for the removal of the exemption from non-domestic rates on Government propoerty in Great Britain. A commitment is also made to consider further whether similar measures would be appropriate in due course for Northern Ireland [paras. 1.1, 1.3]. The reasons for so doing are that:

- the exemption serves no clear purpose;
- it is the Government's policy that Crown immunity should, in general, be progressively removed in all areas of law;[26]
- the current arrangements require the maintenance of a separate system (CILOR) by the Crown Property Unit;[27] and
- the lack of formal enforcement powers for the CPU, and the lack of appeal rights for Crown occupiers, is unsatisfactory and has led to difficulties and delays where the occupier is dissatisfied with the valuation carried out by the CPU [para 3.1].

---

[26] The Citizen's Charter white paper, Cm 1599

[27] Part of the Valuation Office Agency, a next steps agency of the Inland Revenue

Clause 3 of the current Bill would therefore abolish crown exemption and require the Valuation Office Agency to value Crown properties on the same basis as other non-domestic properties. Local authorities would be able take enforcement action against the Crown in cases of default, although the consultation paper suggests that this would "only be in the rarest cases". **Clause 6** would perform a similar function in Scotland (there, the local Assessor would be responsible for valuing Crown properties). **Clauses 4 and 7** (England/Wales and Scotland respectively) would maintain the current rates exemption for property occupied by NATO, visiting armed forces, etc. under the *International Headquarters and Defence Organisations Act 1964* and the *Visiting Forces Act 1952*.

The consultation paper suggests that local authorities' additional costs in collecting rates for Crown properties would be small and would in any case be met by an increase in the 'cost of collection allowance' which councils are permitted to subtract from rates revenue before relaying it to central government for redistribution [para 5.2].

II Parish and Community Councils in England and Wales

A. Background

The 1992 DoE consultation paper *The Role of Parish and Town Councils in England* gives a brief account of the development of the parish in England:[28]

> Parishes date from medieval times or earlier. In the 16th, 17th and 18th Centuries they were the main unit of local government responsible for poor relief, highway maintenance, and law and order, as well as for their ecclesiastical functions. In the 19th Century these civil functions were largely transferred to or taken over by other bodies. They have operated in their current form only since 1894. As a tier of local government they are elected bodies with discretionary powers and rights laid down by Parliament to represent their communities and to provide services for them.
>
> The pattern of parishes across the country has to a great extent been determined by history. Parishes have been formed around distinct communities - and even today when they are created they tend to be community based.
>
> Historically parish council were largely a feature of rural England but over the past 20 years the nature of the areas they represent has been changing. Since 1974 more "urban" areas, in particular freestanding towns, have been parished, particularly areas formerly represented by urban district and borough councils. There are, however, still only a few councils in the metropolitan areas which have some 40% of England's population. Even in rural England, where local councils predominate, their coverage is not universal.

The current system of parish councils in England was established by the *Local Government Act 1894*. Under this system, civil parishes (local government areas) are distinct from ecclesiastical parishes. A detailed history of the first one hundred years of parish councils is provided by **Parish Government 1984-1994** by K P Poole & Bryan Keith-Lucas.

The *Local Government Act 1972* renamed parish councils in Wales "community councils". The Local Boundary Commission for Wales, established under the 1972 Act, carried out a review which resulted in the creation of "communities" in all previously unparished parts of Wales except for the six largest towns. The powers of community councils in Wales are almost identical to those of parish councils in England.

There are more than 10,000 parishes in England, not all of which have councils. A survey of parish councils in England carried out for the DoE by Aston Business School[29] identified

---

[28] Paras 6 - 8

[29] Parish and Town Councils in England: A Survey. HMSO, 1992

8,159 parish and town councils with over 70,000 councillors. The councils represent populations ranging from less than 100 to over 40,000. At the time of the 1981 census, 40% of parish councils had populations below 500 people.

Larger parish and community councils may take the name "town council" under section 245 of the 1972 Act; this entitles the chairman and vice chairman to use the titles "mayor" and "deputy mayor" but does not confer any additional powers on the council.

B. Parish Reviews in England

Part II of the Bill which would, inter alia, create a new procedure for parish reviews, applies to England only.

As pointed out above, communities exist in all rural areas in Wales but civil parish coverage in England is more patchy. The law provides for the creation of new parishes where a local demand is demonstrated. Parishes may also be dissolved where the settlements around which they were created have ceased to exist. Prior to the implementation of the *Local Government Act 1992*, the Local Government Boundary Commission had the power to recommend to the Secretary of State for the Environment the creation, alteration or abolition of parishes, under section 47 of the *Local Government Act 1972*. In addition, every district council had a duty to keep the parish structure in its area under review: districts had to consider whether or not to make recommendations to the LGBC regarding the constitution of new parishes or the alteration or abolition of existing ones [1972 Act, s48]. Parish meetings[30] had the right to put requests for parish reviews direct to the LGBC.

The *Local Government Act 1992* abolished the LGBC, replacing it with the Local Government Commission. The Commission, initially headed by Sir John Banham, was given the task of reviewing local government in the shire counties to decide whether a system of "unitary" local government would be appropriate in each area (the "Heseltine review": see appendix).

At the same time, the 1992 Act streamlined the procedure for parish reviews. The sole power to create, abolish or alter parishes remained with the Secretary of State for the Environment. Under part II of the *Local Government Act 1992*, however, the procedure for parish reviews was integrated into the general procedure for local government structural reviews. Section 13 of the 1992 Act gives the Secretary of State the power to direct the Local Government Commission to carry out a review of any local government area in England. The Commission may, amongst other things, recommend local government boundary changes, including the creation of new parishes [s14(1)(b) & (3)(f)]. The Secretary of State must decide whether to reject the Commission's recommendations or to implement them with or without modifications [s17]. He must wait for at least six weeks after receiving a final report from

---

[30] The parish meeting is distinct from the parish council. Every parish must have a parish meeting at least once a year but the smallest parishes do not necessarily have parish councils.

the Commission before implementing any of the Commission's recommendations. New parishes are created by Order of the Secretary of State; the Order is not subject to Parliamentary scrutiny and simply comes into effect at such time as is specified by the Secretary of State.

Unfortunately the new procedure has proved somewhat unwieldy from the point of view of parish reviews. First, the 1992 Act does not appear to allow the Secretary of State to order a separate parish review as such. Section 13 simply requires the Local Government Commission to conduct "a review" of specified areas in response to a direction from the Secretary of State. The Commission must recommend whether or not to make structural, boundary or electoral changes in the area under review. This would make it difficult to order, for example, a review of the parish structure in a shire county without re-opening the debate on unitary authorities, a process which could be divisive and distracting.

Second, under the 1992 Act parish reviews have had to compete for time with other tasks allocated to the Commission. The Commission was busy with its "rolling review" of local government in the shire counties from 1992 until the end of 1995. Subsequently the Commission has been working to fulfil its statutory duty to carry out reviews of local electoral arrangements and even before the legal problem mentioned above came to Ministers' attention, the Government had found it difficult to earmark sufficient of the Commission's time to meet local demands for parish reviews.[31] The removal of district councils' duty to keep parish structure in their areas under review has apparently removed much of the ability of the parish review system to respond to local pressure for change.

The rural white paper stated that current policy on setting up new parishes was under review.[32] During the 1995/96 Session, Lord Sandys presented a Private Member's Bill, the Community Representation Bill, which would have enabled the electors of an unparished area to instigate the creation of a parish by presenting a petition to the Local Government Commission. During the Second Reading debate Earl Ferrers, speaking on behalf of the Government, acknowledged that the parish review procedure introduced by the 1992 Act had "not worked well".[33] He said that the Government welcomed the Bill's broad intention of giving local people a louder voice in calling for a new parish to be established, and stated that to reintroduce the old 1972 Act provisions would not be satisfactory as "they did not make adequate provision for those cases where districts failed to instigate reviews".[34] He went on:

> We need to construct a better process which, as the noble Baroness [Hamwee] said, will create a role for the districts not to obstruct but to assist... There must be a process which will allow the Secretary of State to have his own discretion in decisions, seeking advice from the Local Government Commission if he wishes to do so.[35]

---

31 See HC Deb Vol 265, 2.11.95, cc 401-2 W

32 Cm 3016, p 23

33 HL Deb Vol 569, 7.2.96, c 325

34 Ibid, cc 324-5

35 Ibid, cc 325-6

The Government issued a short consultation paper on parish reviews on 12 June 1996.[36] The paper proposed that the districts should once more have a direct role in the review procedure, and also that local communities should be able to bring forward proposals for the creation of a parish by petition.

The improvements proposed rest on the basis that the Secretary of State must have discretion over whether to accept or reject proposals put to him for changes to parishing arrangements. Under the system envisaged, proposals for changes might come forward in any of three ways:

i) as a result of a review carried out by the Local Government Commission on the direction of the Secretary of State (this is the current position). The 1992 Act would be amended to enable the Secretary of State to confine the review to parishing matters alone.

ii) on the initiative of the district council for the area in question (this was the position up to 1992).

iii) on presentation to the Secretary of State, via the relevant district council, of a petition from electors in the area of a proposed parish (provision for petitions for new parishes was proposed in Lord Sandys' Community Representation Bill).

District council reviews: A district council would be able to review the whole or part of its area and make recommendations for boundary changes, including the creation or abolition of a parish and consequential electoral changes. It would be required to publicise its review, allow representations to be made and inform the public of the outcome.

Petitions: A petition presented to a District should be signed by at least 10% of electors in the area of the proposed parish and should define the area of the proposed parish, by map or other description. The district must submit the petition to the Secretary of State within 3 months of receipt of the petition unless it had forwarded to the Secretary of State a petition covering a similar area within the previous two years. The District would be required to add its own comments on strength of local opinion on the matter, the definition of the area proposed and electoral implications.

Clauses 9-20 and 22 of the Bill would implement, with some modifications, the proposals for a new procedure for parish reviews set out in the consultation paper. Under **Clause 9** districts (or unitary authorities) would have the power to carry out parish reviews but would not, in contract to the position under the former section 48 of the *Local Government Act 1972*, have a duty to do so. Under **Clause 10** districts would have to take into consideration any representations made to them during the review process.

Clause 22 would require district councils to have regard to any guidance issued by the Secretary of State. Earl Ferrers announced during the Second Reading of the Community

---

[36] Government Proposals for Parish Reviews

Representation Bill that the Government intented to revise its guidance on the size of new parishes.[37] The previous guidance, issued in 1977, had specified that rural parishes should normally have a population of less than 20,000 or one fifth of the population of the district in which they are situated.[38] Earl Ferrers told the House that the Government was considering "whether we should give more weight to the relationship between a potential parish area and the district in which it exists, rather than simply setting an absolute upper limit on what should be the size of parishes". This line of thought is reflected in the June 1996 consultation paper, which made the following proposals regarding guidance:

> Districts would be required to have regard to guidance issued by the Secretary of State on the exercise of any of their functions under the new provisions. They should, in particular, have regard to the need to reflect the identities and interests of local communities and the need to secure effective and convenient local government.
>
> The Secretary of State would also specify in guidance the circumstances in which he would not generally approve proposals for new parishes. These might include:
>
> i) cases where the proposed parish would be so large that it risked dominating the whole district of which it was a part;
>
> ii) cases where in the Secretary of State's view the level of support or the strength of the opposition did not justify the creation of a new parish; and
>
> iii) in any case where general principles of parish creation were breached eg a proposal for a parish which crossed district boundaries.

Clause 11 of the Bill would enable local electors to present to the district council a petition calling for the creation of a parish. The petition would have to be signed by not less than 250 local government electors for the area in question, or 10% of electors, whichever was the greater number. The three month deadline proposed in the consultation paper for presenting the petition to the Secretary of State is retained in the Bill (except where a similar petition has been submitted to the council within the past two years). A district in receipt of a petition would have to inform the relevant county council, where one existed. Under **Clause 12** districts would have to indicate to the Secretary of State whether or not they agreed with the proposals contained in parish petitions. Districts would also be able to make recommendations on the electoral arrangements for the proposed parish council, etc.

Clause 13 would empower the Secretary of State to refer parish proposals (whether made by a district or contained in a petition) to the Local Government Commission for its consideration. The Commission would have to consider the proposals and give its opinion, including any recommendation to alter the proposals subject to seeking the views of interested parties.

---

[37] HL Deb Vol 569, 7.2.96, c 326

[38] DoE Circular 121/77. Local Government Act 1972: Parish Reviews, para 15

Clause 14 would give the Secretary of State the power to give effect, by order, to all or any of the recommendations from a District or the Commission, or a proposal for a parish by petition, with or without modifications. **Clause 15** is a standard provision giving the Secretary of State power to make regulations making any "incidental, consequential, transitional or supplementary provision he thinks necessary or expedient" in connection with Clause 14 orders.

Clauses 16 to 19 contain various additional provisions concerning parish reviews, including modified rules on the circumstances under which a parish must or may have a parish council; and powers enabling district councils to review the electoral arrangements for local parish councils. **Clause 19** would amend the *Local Government Act 1992*, enabling the Secretary of State to direct the Local Government Commission to conduct separate parish reviews (see above).

Clause 20 would enable parish council elections to be synchronised with county council elections in areas where the district councils have been abolished, ie. where the county council has become a unitary authority. The only county to which this applies at present is the Isle of Wight, and there are no plans to create further unitary county councils. Parish council elections are synchronised with district council elections in order to avoid the need for the parish to bear the costs of the election (which in some cases would be higher than the annual parish income). There is currently no power enabling the Secretary of State to alter parish council elections to make them fit in with a unitary county's electoral cycle on a permanent basis. Clause 20 would amend the *Local Government Act 1992* in order to remove this problem.

C. The Consultative Role of Parish Councils (England)

The rural white paper stated that "parish councils have the potential to respond effectively to the needs and priorities of local people and to represent their views".[39] The consultation paper *The Role of Parish and Town Councils in England*[40] proposed that principal authorities (district and county councils and the new unitary authorities) should be required to consult parish councils on a wider range of issues than is currently the case. The rural white paper noted that these proposals received "widespread support".[41] The conclusion of the Local Government Commission that parish and town councils should play a more important role as consultative and representative bodies was also noted.[42] The Government agreed with the Commission's proposal that a formal consultative framework should be put in place to underpin the relationship between principal authorities and parish and town councils, and

---

39 Cm 3016, p 21

40 1992, paras 44-49

41 Cm 3016, p 22. **Rural England 1996**, Cm 3444, notes that over 99% of responses to this proposal gave it "unqualified support" [p13].

42 Renewing Local Government in the English Shires - A Report on the 1992-1995 Structural Review. HMSO, March 1995

made a commitment to legislating in order to provide such a framework at the earliest opportunity [p22].

A single page consultation paper was issued by the DoE on 18 June 1996.[43] It proposed that the Secretary of State would have the power to make orders designating matters on which principal authorities would have to consult parish councils when they were considering such matters. The paper did not discuss the range of issues on which consultation would be required, but the 1992 consultation paper suggested that these might include:[44]

- the management of facilities within the parish area provided by district or county councils or unitary authorities such as sports grounds or libraries;
- the making of litter control areas, street litter control notices and dog by-laws;
- abatement orders against noise and nuisance;
- street naming within the parish;
- local highways issues such as parking restrictions and road safety; and
- tree preservation orders.

The 1996 paper proposed that before making a decision about a designated matter, a principal council would have to take into account any representations made to it by any parish council in its area. It would also have to notify any parish which had made representations after it took a decision on a designated matter [para. 3].

The Secretary of State would also be able to designate additional matters on which parish councils would have the option to be consulted if they had given written notice of their wish to be consulted to the relevant principal authority. Written notice could be couched in general terms or could relate to a specific proposal [para. 4]. The Secretary of State would be able to prescribe circumstances in which the duty to consult would not apply, for example when the county or district needed to act urgently [para. 5]. The consultation paper anticipated that the matters on which consultation should take place would be covered in guidance, with the power to make orders requiring consultation to be held in reserve. That is to say, the consultation framework would in the first instance be voluntary, but with the option to introduce a mandatory framework if the voluntary option proved ineffective [para. 6].

Clause 21 of the Bill would enact these proposals. Failure to consult with parish councils would not invalidate any decision taken by a county, district or unitary authority. [Sub-clause (4)].

---

43 Government Proposals for a Consultative Framework Between Principal Authorities and Local Councils

44 The Role of Parish and Town Councils in England, para. 47

D. Parish and Community Council Services (England and Wales)

1. Existing Powers and Funding

Parish and community councils have no statutory duty to provide services, but they do have a number of statutory powers, most of which are shared with the district or county councils. The following list is adapted from the 1992 consultation paper [op cit].

The Main Powers of Parish and Community Councils

Allotments

Arts and recreation
including the provision of village halls, parks and open spaces, playing fields, swimming baths; and the encouragement of tourism

Burial grounds and churchyards

Environmental health
including litter control and public conveniences

Footpaths, Roads and Traffic
including public seats and bus shelters; footpaths and rights of way; parking facilities

Public clocks

War memorials

Post Offices
the power to subsidise local post offices

A district or county council may arrange for one or more of its functions to be carried out by a parish council acting as its agent and agree to bear all or part of the expenses.[45] A study of parish councils carried out for the DoE by the Aston Business School found that 12% of local councils acted as agents for the district or county council.[46] The main functions for which the councils acted under agency powers were street cleaning, grass-cutting and footpath maintenance. The larger the parish council, the more likely it was to act as an agent for the

---

45 *Local Government Finance Act 1972,* section 101. This provision also enables parish councils to arrange for the district or county council to provide services on their behalf.

46 Parish and Town Councils in England: A Survey. HMSO, 1992, para 6.2

district or county: the study found that of councils with populations over 20,000, 34% acted as agents for a principal council.

Parish councils are funded by charges on their local district councils which are passed on to the public through the council tax. This is known as *precepting*. The precepts issued by parishes are identified separately in the council tax bills sent out by the districts. Other authorities, such as county councils and police authorities, are also funded by precepts.

Parish councils are not covered by the capping regime which applies to other local authorities such as district and county councils and police authorities[47] so in theory there is no limit to the amount which they may raise through their precepts. This is subject, of course, to democratic control: the parish electorate may reject councillors who have voted for a high level of expenditure. Parish councils' level of expenditure is very uneven from council to council and spending within an individual council may rise steeply on a short term basis to pay for a particular local amenity such as a village hall. This, and the sheer number of parish councils in existence (the Aston Business School survey identified over 8,000) would make the application of the complex capping procedures to parish councils very difficult.

Although, in general, local authorities (including parish councils) may only spend money on purposes for which they have explicit or implicit statutory authority, an exception is granted by section 137 of the *Local Government Act 1972*[48]. This is the modern equivalent of the old "twopenny rate". Under this section a local authority may incur expenditure which is not authorised by any other statute and which in the authority's opinion is in the interests of, *and will bring direct benefit to*, its area or any part of it or all or some of its inhabitants. The direct benefit accruing, however, must be commensurate with the expenditure to be incurred. Expenditure under section 137 is strictly limited in the case of parish councils to £3.50 for every adult in the parish. Section 137 can be important for parish councils as (unlike county and district councils) the range of statutory powers available to them is limited. The existence of a limit on section 137 spending may therefore restrict the spending of some parish councils, although the Aston Business School survey found that most parish councils do not spend all of their allowance under s137. The Environment Committee's report on the rural white paper described the £3.50 cap on s137 expenditure as "unnecessarily restrictive" and called for it to be reviewed.[49]

The rural white paper stated that "parish councils have the potential to respond effectively to the needs and priorities of local people and to represent their views".[50] Three years earlier in its consultation paper *The Role of Parish and Town Councils in England*[51] the Government had discussed the possibility of principal authorities (district and county councils and the new

---

47 *Local Government Finance Act 1992*, s54

48 as amended by section 36 of the *Local Government and Housing Act 1989*

49 Third Report of the Environment Committee: Rural England: The Rural White Paper. HC 163-I of 1995-96, para. 141

50 Cm 3016, p 21

51 1992, paras 50-51

unitary authorities) being encouraged to delegate more of their functions to parish councils (eg. refuse collection, litter control, the maintenance of sports facilities and certain highways functions). The 1992 paper rejected the idea of a systematic expansion of parish council powers, however:

> There are strong arguments against giving local councils direct responsibility for more functions. What the Aston survey [op cit] demonstrated most clearly was that parishes vary greatly in scale - with populations ranging from fewer than 100 to as many as 40,000 people; in character - from small rural communities to suburbs and medium sized towns; and in their levels and degree of competence. In particular the survey revealed a lack of consistency in the standard of financial management and accountability. This applied to councils of all sizes. Strong financial management was not the norm. Many councils failed to produce an annual budget, kept few records, failed to insure assets and did not review charge levels or maximise income by keeping funds in interest bearing accounts.[52]

> Given the sheer range and diversity of the local councils - both in terms of what they do and how well they do it - the Government does not believe it would be right to provide across the board increases in their rights and powers. The Government has therefore decided not to pursue options which involve directly increasing the functions for which parishes are primarily responsible.

Nevertheless, the white paper made a commitment to make available some new powers for those parish councils which wished to use them. The proposed new functions, in the areas of community transport and crime prevention, are discussed below.

2. Crime Prevention

i. Background

The rural white paper [Cm 3016, p96] describes some of Government's initiatives which are relevant rural crime prevention:

> As part of a general programme of advice in support of crime prevention measures, the 1994 Department of the Environment and Welsh Office circular Planning Out Crime gives practical advice to local authorities, developers and designers about planning considerations relevant to crime prevention. The Home Office leaflet *The Big Steal Is On* gives practical advice to farmers on how to make their farms more secure. Some 335,000 copies of the leaflet and

---

[52] The Government has dropped plans set out in the rural white paper to remove the requirement for annual audit for the smallest parish councils, following consultation with the National Association of Local Councils. Many councils reportedly feared a loss of accountability if the audit requirement was removed [Rural England 1996, Cm 3444, p14].

In its report on the rural white paper, the Environment Committee called for the Government to back "comprehensive training programmes for parish councillors" [op cit, para. 136].

29,500 copies of a poster have been distributed via local police Crime Prevention Officers. Other bodies such as the National Farmers' Union have also published useful advice.

In 1988 we established Crime Concern as an independent crime prevention organisation. Crime Concern receives £500,000 per year in grant aid to enable it carry out its work, which includes setting up crime prevention and community safety partnerships, developing specific crime prevention initiatives and providing training for people involved in community safety. In partnership with Gloucestershire Constabulary, Crime Concern hosted the first National Rural Crime Prevention Conference in 1994. The conference considered ways of preventing crime in rural areas and encouraged the spread of best practice.

It is important to ensure that young people do not become constant offenders. In rural areas, some people can feel threatened by young people who may be loitering because there are no local after-school activities. Providing youth clubs and youth activities can stop young people from drifting into crime.

The Rural Development Commission and a number of local partners have commissioned Crime Concern to undertake surveys of young people to look at their involvement in and their concerns about crime. The surveys also asked young people for their ideas on how to reduce crime. The results of these Youth Surveys will be published later in 1995. They will help the police and local authorities to be more responsive to young people's concerns.

The recent growth in the use of closed circuit television (CCTV) surveillance systems is highlighted. The Government encourages their use to monitor high streets, shopping centres, car parks, industrial estates and other areas: "As well as helping to reduce levels of crime, the presence of the cameras also helps people to feel more secure". Planning regulations were relaxed in June 1995 to allow cameras to be installed in most cases without the need for express planning permission.

The white paper acknowledges that, to date, the majority of CCTV systems have been introduced in large towns and cities, but suggests that they can be equally effective in smaller centres of population. The 1994-95 CCTV Challenge Competition, which distributed £5 million, focused on promoting CCTV schemes in these areas and the winning bids included a number from rural market towns and villages.[53] The winners of the second CCTV competition were announced in June 1996.[54] On this occasion, over £17 million was distributed. Bidding was open to any community partnership, regardless of location, but **Rural England 1996** notes that about a quarter of the public area winners were in rural towns or villages, amounting to around 50 new rural CCTV systems.[55] Details of the third Home Office CCTV Challenge Competition were announced on 20 August 1996.[56] £15 million is being made available for the winners. The competition is open to local partnerships involving

---

53 See Home Office Press Release 069/95, 27.3.95, "Winners switch on CCTV to stamp out crime"

54 Home Office Press Release 186/96, 21.6.96, "More winners switch on CCTV to stamp out crime"

55 Cm 3444, p 63

56 Home Office Press Release 258/96, "CCTV camera cash"

local authorities, the police and community and business groups. The deadline for applications is 20 November 1996.

ii. Crime Prevention and Local Authorities

The rural white paper states:

> Local authorities have an important part to play in preventing crime in a variety of ways including the installation of appropriate street lighting. We are encouraging them to develop community safety strategies which give specific attention to the needs of rural areas. Some 220 local community safety partnerships have already been formed across the country, many of which address crime problems in rural areas.
>
> Crime Concern will shortly be publishing a guide for parish councils containing practical advice on crime prevention. Support is being provided by the Rural Development Commission and private sector sponsors. We will encourage parish councils to take effective action using their existing powers.[57]

Two local authority crime prevention schemes are described on page 97:

Nottinghamshire Community Safety Challenge

Nottinghamshire County Council has introduced challenge funding for schemes to prevent youth crime in partnership with the Rural Development Commission and Nottinghamshire Drug Prevention Team. Proposals involved parish councils, neighbourhood groups and young people. One of the schemes supported was Selston Mobile Information/Youth Project, set up because of increasing youth crime. The Project's Information Bus visits two evenings a week with both an information worker and local youth worker. The scheme is expanding to include mini-bus excursions for young people.

Coningsby Parish Council and Police Station, Lincolnshire

In 1994, the local police force invited the Coningsby Parish Council to share accommodation to make use of a previously unstaffed police station in the village centre. In return for rent free accommodation, the parish clerk now acts as a contact point for the police, recording details of lost property, dealing with fixed penalty fines, taking crime reports and answering general enquiries.

Although the parish clerk is only paid to work two days per week, the office is now usually open every day because the clerk also works there as a volunteer at other times. There has therefore been a huge increase in the number of hours when the public has access to the police station and links between the council and police have also improved enormously.

---

[57] Cm 3016, pp 96-7

The scheme has been a great success and the use of volunteers has been extended to other police stations in the area.

iii. Proposed Crime Prevention Powers for Parish Councils

The rural white paper sets out the Government's desire to enable parish councils to work more closely with the police, for example by contributing towards the costs of recruiting, training and equipping local neighbourhood special constables on duty in the area [p98]. Section 92 of the *Police Act 1996* enables principal authorities (including counties, districts and unitary authorities) to make grants to police authorities within their areas. Such grants "may be made unconditionally or, with the agreement of the chief officer of police for the police area concerned, subject to conditions". **Clause 31** of the current Bill would extend this power to parish and community councils in England and Wales.

The Government also indicated in the white paper that it wished to give parish councils a more specific power to support crime prevention activity. Section 163 of the *Criminal Justice and Public Order Act 1994* gives a specific power to local authorities to spend money on CCTV schemes in their areas in partnership with the private sector and others, but this power does not extend to parish councils. **Clause 31**, in addition to the grant-making power described above, would introduce wide-ranging crime prevention powers for parish and community councils. The new powers would enable them to install and maintain any crime prevention/detection equipment; establish and maintain any crime prevention/detection schemes; or assist others in carrying out these activities.

3. Community and Voluntary Transport

Existing legislation

The most important aspects of community and voluntary transport legislation are contained in the 1980 and 1985 Transport Acts:

- Section 19 of the *Transport Act 1985* allows community-based organisations to operate small buses (9-16 passenger seats) and charge a fare without the need for PCV licensing, provided they run on a non-profit making basis and carry restricted groups of passengers. Section 22 of the *Transport Act 1985* allows community-based groups to operate small buses which are available to the general public (9-16 passenger seats) and charge a fare without the need for PCV licensing, providing volunteer drivers are used and the operation is run on a non-profit-making basis.

- the *Transport Act 1980* allows car owners to advertise their willingness to carry passengers and share the costs of the journey on the basis that the lift-giving is arranged in advance of the journey and that the shared costs do not result in any profit

to the driver. This represents the legal framework upon which social car schemes are operated.

In reponse to this, many authorities have appointed Community Transport Officers with specific responsibility for the encouragement and development of community and voluntary transport services in their area. However the Rural Development Commission in a recent survey of community transport[58] found that "the greatest difficulty that community and voluntary transport has is one of responsibility for developing and supporting it. This position is exacerbated by the rather ambiguous way (in that responsibility is not defined in any way) community and voluntary transport is dealt with in the 1985 Transport Act. Hence community and voluntary transport had the tendency to be dealt with in an ad-hoc style of the type described throughout this study".

The Government in its White Paper, "Rural England"[59], published in 1995, put forward the view that parish councils are well placed to develop flexible transport solutions to meet community needs and listed the areas of activity in which parish councils might take a more active role:

- conducting surveys to establish the transport needs of the community;
- providing support for comminity minibuses;
- contracting with local taxi companies to provide transport for the most needy members of the community;
- organising car sharing schemes;
- providing information on local transport schemes.

It noted that legislation would be necessary to enable parish councils to take on these additional functions if they so wished. The Government invited comment on the proposals by March 1996 and have held discussions with the Local Authority Associations. This is the background to Clauses 26-30 in Part III of the Bill, which applies to England and Wales and gives parish and community councils powers to take various measures with respect to transport and roads in their area.

Clause 26 of the Bill would enable a parish or community council to establish a car-sharing schemes. Clause 27 inserts a section 106A in the Transport Act 1985 to allow parish or community councils to make grants towards community bus services. Clause 28 allows parish or community councils to provide taxi fare concessions to eligible persons. Clause 29 allows parish or community councils to assess the needs for public transport provision in their area. Finally Clause 30 allows parish or community councils to contribute towards the funding of

---

58 *"Community and voluntary transport in rural England"* 1996

59 Cm 3016

traffic calming works in their area. As stated in the White Paper the powers provided in the Bill do not go beyond those available to district and county councils under the Transport Act 1985.

The RDC in its survey[60] endorsed the case for the involvement off parish and community councils: "we feel that in the case of some rural areas where transport needs to be considered in the context of wider-ranging social issues it may be more appropriate for the responsibility to lie with Rural Community Councils (RCCs) which have a close involvement in rural and voluntary sector issues in their areas" and "At a very local level there may be benefit in giving Parish Councils the power to develop and finance community transport schemes in order to stimulate activity at community level".

Finance for Community Transport

Financial support for community transport in the countryside is provided through the Rural Transport Development Fund (RTDF) which is administered by the Rural Development Commission (RDC). The White Paper promised to make the fund more flexible and remove some of the restrictions. The RTDF has since been made more flexible and from 1 April 1996 properly constituted organisations responsible for the elderly, the disabled and the young will become eligible for the first time to apply for grants to meet the specific transport needs of their members. Resources of £1.26 million in 1996-97 (up from £850,000 in 1995-96) have been made available from the budget for grants and consultancies for local roads and transport to meet the expected increase.

The Environment Select Committee in its report on the rural White Paper[61] observed that it was pleased to receive evidence from the RDC that the lifting of restrictions upon the RTDF would enable a greater number of small transport schemes, including those for special needs to be supported. It considered that the sum of £1.25 million was very small and that even if doubled it would still be modest but by "pump-priming" and investment at the local level it would enable many more useful and sustainable schemes to be realised.

The Committee commented that the integration of transport systems such as buses and trains is particularly important in rural areas, both in terms of effective and economic use of available resources and also in terms of reducing car dependency. This was particularly so in view of the forecasts presented in the White Paper that traffic would increase by between 61% and 98% by 2025 compared with 1993. The Campaign for the Preservation of Rural England (CPRE) recently predicted[62] that the volume of traffic on many rural routes would treble within the next 30 years.

---

60 paragraph 5.4

61 *"Rural England: The Rural White Paper"* HC 163-I 1995-96

62 *"Lost lanes"* August 1996

The Committee also pointed out that public transport in rural areas has a role to play in the sustainable management of tourism as well as the value for those who live and work in the countryside. It therefore believed that there should be increased support for rural public transport whether in traditional services, such as trains, or in more flexible modern alternatives such a communal taxis co-ordinated by computer. While it welcomed the Government's acknowledgement that substantial increases in traffic can have "unacceptable consequences" and the work which is in progress to explore alternative and economical transport schemes, it called for the funding of such schemes to be accorded a greater priority.

The RDC survey found that funding from local authorities for both capital and revenue items was equally important as the RTDF. In Hertfordshire the dial-a-ride service is part-funded by the County Council and the majority of District/Borough Councils, while at a more local level Breckland District Council in Norfolk has supported a number of social car schemes. Many more examples are cited but the survey illustrates the inconsistencies which arise when there is no compulsion to fund community and voluntary transport. For example £600,000 is invested in Lancashire (with a rural population of 1.4 million) whilst only £70,000 is available (for schemes other than dial-a-ride) in Hertfordshire with a population of 1 million. The table reproduced overleaf shows the proportion of parishes within each county in England who responded to the RDC survey with at least one community transport scheme.

Evidence to the Select Committee revealed that it is becoming more difficult to obtain a sufficent number of volunteers to meet the demand for them and there is an increasing reliance on fewer more elderly people giving more time. The White Paper announces schemes which hope to encourage more young people to become volunteers. The Select Committee welcome this but is disappointed that it fails to provide greater resources to support these volunteers and facilitate their action.

One of the arguments for giving parish councils more power in the transport field is that they have the power to raise funds by the precept on its council tax payers but there is some doubt as to whether parish councils will want to raise council tax bills. The Select Committee noted that "the choice of parish councils to take up these powers, therefore, will be dependent largely upon the willingness of their local taxpayers to finance the schemes."[63]

---

[63] paragraph 140

Table C.1 - Proportion of Parishes Within Each County Served by Community and Voluntary Transport Schemes, Bus and Rail Services

	Parishes with scheme	Parishes with bus service	Parishes with rail service	Total parishes
Avon	.17	.89	.05	92
Bedfordshire	.77	.94	.07	102
Berkshire	.45	.92	.20	64
Buckinghamshire	.27	.90	.08	155
Cambridgeshire	.22	.95	.06	250
Cheshire	.37	.81	.07	271
Cleveland	.92	.96	.08	25
Cornwall & The Scilly Isles	.41	.92	.09	199
Cumbria	.24	.79	.13	215
Derbyshire	.58	.84	.06	210
Devon	.55	.85	.04	314
Dorset	.17	.85	.06	210
Durham	.16	.82	.02	103
East Sussex	.29	.97	.21	78
Essex	.21	.95	.16	219
Gloucestershire	.44	.92	.02	211
Hampshire	.61	.93	.09	180
Hereford & Worcester	.41	.89	.03	354
Hertfordshire	.28	.92	.09	88
Humberside	.20	.96	.12	135
Isle of Wight	.96	1.00	.19	26
Kent	.23	.91	.21	245
Lancashire	.24	.91	.14	172
Leicestershire	.12	.83	.02	236
Lincolnshire	.11	.88	.03	380
Norfolk	.26	.81	.06	405
Northamptonshire	.17	.92	.00	210
Northumberland	.07	.93	.09	154
North Yorkshire	.14	.76	.05	556
Nottinghamshire	.38	.93	.08	180
Oxfordshire	.32	.90	.04	230
Shropshire	.37	.90	.06	183
Somerset	.12	.85	.05	234
South Yorkshire	.29	.96	.02	51
Staffordshire	.19	.96	.08	113
Suffolk	.14	.93	.06	342
Surrey	.52	.97	.32	60
Warwickshire	.21	.77	.05	200
West Sussex	.44	.88	.10	103
West Yorkshire	.30	.93	.14	44
Wiltshire	.24	.96	.03	223

Assessment of local transport needs

The Government published a progress report in October 1996[64] on developments since the publication of the White Paper. It acknowledged that community groups and volunteers who are running transport schemes need support and guidance. In June 1996 the RDC approved a three year project in conjunction with the Community Transport Association (CTA). This is to help rural communities, including parish councils, to assess their transport needs and define solutions and will provide training materials for volunteers involved in local transport schemes. The Government in the White Paper also promised to consult local authorities and the RDC and to produce a best practice guide to encourage the integration of existing community transport schemes such as minibuses to take the elderly to day care centres and school buses used to take children to school. In March 1996 the RDC published a good practice guide to rural transport schemes which it distributed widely including to all parish councils.

Traffic Calming

The White Paper discussed the issue of traffic management. It noted that traffic calming has been mainly used in towns and cities but that it could also make a significant improvement to the quality of life in villages by slowing traffic down as it passed through. In some circumstances this could be a cheaper or more desirable alternative to a bypass or a complementary measure. A study by the Village Speed Control Working Group[65], a collaborative initiative with the County Surveyor's Society, investigated ways of controlling the speed of vehicles through 24 villages, 19 of which were in England. The study found that a mixture of gateways and complementary measures could achieve major reductions in speeds.

The Government considers that too often schemes have been introduced without adequate consultation, often by those with urban experience and little knowledge or concern for rural interests. It wanted highway authorities to look at their network of rural roads to determine which roads might be suitable and develop a closer dialogue with parish councils and rural communities in designing sensitive traffic calming measures. It expressesd an intention to invite the Countryside Commission to work in close partnership with the Department of Transport, highways authorities, parish councils and local communities to develop pilot projects which would test out the feasibility of this approach and ways of implementing it effectively. The Countryside Commission is expected to establish a Countryside Measures Traffic Group to carry out this work and invite proposals for pilot projects before the end of 1996.

---

64 MAFF, Department of Environment, *"Rural England 1996"*

65 Village Speed Control Working Group, *"Final Report"* June 1994

Clause 30 of the Bill inserts Section 274A in the Highways Act 1980 to allow parish or community councils to contribute towards the expenses incurred by highway authorities in connection with traffic calming works in their areas.

III Reactions to the Bill

The Bill is not expected to arouse particular controversy. During the debate on the Queen's Speech Frank Dobson, the shadow Environment Secretary, said that "the Bill affecting rural areas... is generally welcomed by the Opposition".[66] Don Foster, on behalf of the Liberal Democrats, regretted the absence from the Queen's Speech of a bill to give local authorities a power of general competence and to abolish capping.[67]

A. Rates Relief for Village Shops

Most comment to date has centred on the rates relief proposals contained in the Bill. The National Federation of Sub-Postmasters was reported by the *Independent* to be delighted with the scheme for village shops and post offices.[68] A spokesman for the Federation of Small Businesses has welcomed the scheme but has also called for a review of rating policy towards small businesses in general, and the Association of Metropolitan Authorities has suggested that "there are shops in urban areas, particularly on housing estates, which are equally deserving of financial support".[69] The Council for the Protection of Rural England, although welcoming the scheme, "warned that small shops and post offices would not survive unless the Government resisted pressure for out-of-town shopping centres on green-field sites".[70] The AMA, in similar vein, claimed that

> the proposals are likely to have only a marginal effect on the viability of these businesses and are unlikely to be the determining factor in whether or not the businesses continue trading. The proposals are a limited response to a fundamental problem.

The Association of District Councils broadly welcomed the rates relief proposals but predicted that "many rural councils will have some concerns about finding the additional resources to fund their share of such relief schemes."[71] This echoed an article which appeared in the *Scotsman* at the time the rates relief consultation paper was published in Scotland:[72]

> Scottish Office proposals to cut the rates bills of village shops and post offices by offering mandatory and discretionary relief could not be funded by the new Borders Council, it was claimed yesterday.

---

66 HC Deb Vol 284, 29.10.96, c537

67 Ibid, c485

68 "Ministers prepare to prime the parish pump", 25.10.96

69 Draft brief on the Local Government and Rating Bill, 31.10.96

70 *Independent*, op cit

71 ADC Press Release PR 36/96, "ADC welcomes parish proposals in Queen's Speech", 23.10.96

72 "Council claims it cannot afford rate cuts for rural businesses", 3.7.96

> An analysis of Government plans to boost the viability of rural businesses with rates reductions has shown up to 1,800 premises in the Borders could qualify. If maximum relief were granted to them all, the cost to Scottish Borders Council would be £860,000 a year.

The AMA brief explains that in costing the scheme, the Government assumed that councils would top up all recipients of mandatory relief to 100% and would also give over £13 million in disretionary relief to businesses which did not qualify for mandatory relief. This would cost rural local authorities in England and Wales a total of around £4 million (given that 75% of the cost of giving discretionary relief is met by the Government). Borders Council officials were quoted in the Scotsman as saying that "expectation would be high of relief being granted".

Earlier in 1996, the National Committee on Rating of the Royal Institution of Chartered Surveyors (RICS), under the chairmanship of Jeremy Bayliss, produced a report suggesting a number of adjustments to the rating system.[73] The committee considered the rural white paper's proposals on rates relief for village shops. The report states:

> The details of the proposed scheme will need to be examined very carefully. Our initial reaction is one of concern that a particular section of the business community will be perceived to be favoured by special support, as opposed to more general support for small businesses which could assist the rural community or which may alternatively assist or provide services in depressed urban areas. The boundary between those receiving and those denied relief will inevitably be arbitrary whatever qualifying criteria are adopted. We see little justification for special rate relief for rural shops where the ratepayer is not suffering hardship.
>
> We are particularly concerned that, by the very nature of the landlord and tenant relationship, there is the possibility where rural shops are not owner-occupied that without adequate safeguards such special rate relief will not eventually benefit tenant occupiers financially. The beneficiaries of such rate relief will ultimately be landlords since tenants see rent and rates as a combined outgoing.
>
> We accept that this is a political decision but believe a better way of directly assisting rural shopkeepers would be to ensure that hardship relief, to which we refer in section 6.3 above, is properly applied by billing authorities. [p34]

The AMA also suggested that the criteria for deciding which businesses receive mandatory relief and which do not would give rise to unfairness:

> One fertile area for discontent is the absence of any measure of hardship in determining eligibility. A thriving sole village store will receive mandatory relief whereas a struggling second store in a nearby village will receive nothing.

---

[73] Improving the Rating System (The Bayliss Report)

> If there are two general stores in a rural community one of which is also a post office then that property will receive mandatory relief and the other general store will not.
>
> The existence of several outlets in a rural settlement, one only of which will be eligible for mandatory relief, will present the local authority with difficult choices to ensure fairness of treatment. Should the authority grant discretionary relief to the others? A possible scenario here is a general store (eligible) and a baker and a butcher (not eligible).

B. Other Measures in the Bill

The Association of District Councils welcomed the Government's proposals to strengthen the role and responsibilities of parish councils, which, it said, "have a key role to play at local level by improving the quality of life and enhancing the environment".[74] The National Association of Local Councils, which represents 7,500 parish and community councils in England and Wales, gave the Bill a "mixed welcome", however:

> although the measures represented recognition of the unique role of local councils as the first tier of local government, the lack of specific funding proposals to back the measures was a disappointment.[75]

The following assessment of the Bill was offered by Edward Dimbylow, writing in the *Local Government Chronicle*:[76]

> Environment secretary John Gummer pulled off a nifty political move last week by giving new powers to parishes. A drive to revive rural England cannot be a bad thing in the run-up to an election. At the same time the other tiers of local government cannot complain about extra powers going to the lowest tier of democracy, given their promises made during the structure review to involve parish councils more closely in decision making.
>
> On the face of it, allowing the country's 8.000 parish councils to exercise more power is subsidiarity in action. Small villages and hamlets unable to make their voice heard on the district or county council will be able to improve their environment and the quality of life of their residents. It will be services for the people, chosen by the people and paid for by the people.
>
> But when the detail is examined the changes are not that radical and questions have to be asked as to whether they will really do anything to sustain the rural ideal Mr Gummer is so anxious to preserve.

An analysis of the Bill by Paul Clayden, director of NALC, concluded:[77]

---

74 ADC Press Release, op cit

75 NALC Press Release, "NALC issues mixed response to local government and rating Bill"

76 "Gummer's rural renaissance", 1.11.96

77 *Local Government Chronicle*, 1.11.96, "Proper power to parishes"

Local councils are the only form of community government in England and Wales. They must be recognised as an essential part of the structure of local government in England. The Local Government and Rating Bill is a step in the right direction. It will now be for local councils to ensure that the recognition of their potential role is not misplaced.

IV Other Proposals on Local Government in the Rural White Paper

A. Planning and the Countryside

The Government has been consulting on some changes to the planning system as it affects the countryside, mentioned in the White Paper. One is a draft revision of the Planning Policy Guidance Note (PPG) on the countryside. The other is a proposal for a special rural business class. A discussion paper is also due in November on the estimates for household formation, which could have considerable consequences for housebuilding in the countryside.

1. The Planning Policy Guidance Note

The Government has issued a draft replacement for the current PPG on the countryside.[78] In some cases the PPGs can be of more importance than the statutes of planning law. They provide guidance for development plans and for individual decisions on planning applications. If a local authority refuses planning permission, without taking account of the relevant PPG, it can expect the decision to be reversed on appeal.

The main changes of the draft PPG from the 1992 version are to :

take account of the White Paper Rural England, and of recently-published PPGs;

advise on achieving good quality development and respecting the character of the countryside;

re-state and clarify policy on protecting the best agricultural land;

clarify policy on the re-use of rural buildings, allow greater discrimination in favour of re-use for business rather than residential purposes, and advise on incorporating a residential element within a scheme for business re-use;

stress the importance of thoroughly checking the lawfulness of developments to be carried out under agricultural permitted development rights, and advise on the possible removal of new buildings erected under them but not used for agriculture;

---

[78] The Draft is entitled *The Countryside - Environmental Quality and Economic Development*. The current (1992) version is entitled, *The Countryside and the Rural Economy* (PPG7)

strengthen the agricultural dwellings concession to counter abuse; and

advise on local countryside designations and on the planning implications of Rural Development Areas and European Union Objective 5(b) areas.

On the whole, the aim seems to be to improve the protection of the countryside, for example by preventing the use of agricultural permitted development rights from resulting in the erection of buildings which cease to be used for agriculture within a few years but remain and are eventually put to other uses. It is always difficult to know how much difference a revision of a PPG will really make in planning decisions. In a sense, this revision could be said to strengthen the position of a local planning authority wishing to refuse planning permission by giving grounds to support that decision on appeal. However, local planning authorities in the country are sometimes perfectly willing to allow more development, and in such cases the new PPG would have little effect.

One part of the new draft PPG which is more permissive relates to country houses. Much of the PPG is aimed at preventing the erection of isolated buildings in the country unless there is special justification for agriculture and forestry. However, (3.22)

An isolated new house in the open countryside may also exceptionally be justified if it is a truly original and high quality building which significantly enhances its surroundings [para.3.22].

A newspaper quoted the view of the Council for the Protection of Rural England that current planning law was already flexible enough for the rare case of a really exceptional modern country house, but that this new passage would be a positive incentive for new executive homes in the countryside.[79]

2. The Proposed new Rural Business Use Class[80]

Although this would form part of the revised PPG, it has been the subject of separate consultation. The background is concern that, despite existing controls, a local planning authority in a rural area may give planning permission for a business use only to find that it subsequently intensifies in a way which could potentially damage local amenity. Fear of that may make the authority reluctant to grant planning permission in the first place in locations where a low intensity business use would be acceptable, but a more intensive use might not [para 9].

13. The purpose of the new use class would be to trigger a planning application where the existing use intensified beyond an acceptable level. Some measure of intensification therefore

---

79 *Guardian*, 26 October 1996

80 Consultation Paper on the introduction of a new rural business use class into the Use Classes Order, DOE, July 1996

needs to be included in its definition. The Department is proposing that this should be based on the impact of traffic generated on local amenity.

The new use class will be defined in terms of uses which can be carried out in the rural area concerned without detriment to the amenity of that area by reason of the volume or character of traffic generated.[81]

Comment on the proposal has been mixed, with some doubts expressed as to whether it is workable, as well as concern as to whether increased commuting from urban residential areas to rural areas is at odds with other planning policy guidance (PPG13), particularly in view of the cumulative effect of a series of new small-scale enterprises. The Royal Town Planning Institute welcomed the balanced approach of the document, but noted the lack of practical guidance on how to put it into effect. The Council for the Protection of Rural England considered the document an improvement on previous Government policy, but considered it development-led rather than environment-led.[82]

3. Household Formation

Potentially, a larger change for the countryside might derive from the recent estimates for new household formation, suggesting that 4.4 million new households will be formed between 1991 and 2016. Much of the increase must inevitably be in the countryside, since even the current rate of building in urban areas has only been sustained by the use of urban green spaces. The new projections of households to 2016 were published in March 1995.[83] They were derived from the latest official sub-national population projections published by OPCS on 29 November 1994, by applying to them projections of men and women in households in each age group. Trends in household formation from the Censuses of Population in 1971, 1981 and 1991 are extrapolated to give assumed future rates. The projections are heavily dependent on the assumptions involved, particularly internal and international migration, marital status and the continuation of past trends in household formation.[84] These projections showed total households in England increasing from 19,215,000 in 1991 to 23,598,000 in 2016, an increase of 23%. The percentage increase for the South East is greater at 27% from 3,036,000 in 1991 to 3,843,000 in 2016.

The process of decision-making was described in reply to a PQ.[85]

Sir Paul Beresford: The Department of the Environment's household projections provide estimates of the future number of households by region, county

---

81 More precisely, there would be two rural business classes corresponding to the current distinction between Use Classes B1 (business) and B2 (general industrial)

82 *Planning Week*, 17 October 1996

83 Projections of Households in England to 2016, HMSO 1995

84 DOE Press Notice, 6 March 1995

85 HC Deb 8 May 1996 c.136w

and metropolitan and London boroughs. These are the starting point for developing housing needs requirement figures in regional planning guidance. Regional conferences of planning authorities consider the revised projections and advise the Secretary of State of the number and distribution. This process has started in a number of regions and will lead to proposals for changing the housing figures in regional planning guidance. Once agreed, the new figures will be tested in alterations to structure plans and unitary development plans and, in turn, in alterations to local plans. Regional planning guidance usually looks ahead 15 years, structure plans 10 to 15 years and unitary development plans and local plans 10 years.

County Structure Plans require the approval of the Secretary of State. They tend to be arrived at by bargaining between the county wanting to make limited provision for more housing and the Secretary of State wanting to increase that provision. Some counties fear that if they allow too much housebuilding, that will simply attract people to move in from areas where housing is scarcer. However, even counties not wanting the new houses face problems. If the incomers really want to come, they may be able to buy the existing property, leaving locals with a housing shortage.

Once the figures are in the plan, it is nowadays harder for the necessary housebuilding to be thwarted by individual planning decisions. The reason is that since 1991 conformity to the local Development plan is a material consideration to be taken into account. Therefore a local planning authority which ignored it would find its decisions to reject planning applications for more housing overturned on appeal.

Inevitably, then, there will be problems in reconciling the aims of protecting the countryside and the need to find space for the new households.

B. Local Government Finance in England and Wales

1. Standard Spending Assessments: The Sparsity Indicator

Around 80% of local authorities' expenditure[86] is funded by central government. The main channel through which government support is directed to local authoritiies is the **Revenue Support Grant** (RSG). The Government pays RSG to each authority in a block and has no control over how it is spent: it is not hypothecated (earmarked for a specific purpose). The national total for RSG is divided amongst the different councils using **Standard Spending Assessments** (SSAs). The SSA works by determining what an authority needs to spend in order to provide a "standard level of service". RSG is then distributed to councils on the

[86] excluding parish councils

basis that they only need set the standard level of council tax specified by the Government in order to spend at the level of their SSAs.

The SSA only provides a relative assessment of need: it is the means by which Government divides up the sum which it has set aside for RSG. The size of the financial settlement is, of course, influenced by political and economic considerations as well as Ministers' assessment of the needs of local government. Where councils complain about their SSAs this could be a claim that they are unfairly treated by their SSA in absolute or in relative terms, or both: ie. is a council claiming that its SSA does not represent the true level of local need or, more pragmatically, that it treats the council unfairly in relation to other authorities?

The means by which the SSA for each authority is calculated are complex. An SSA is composed of seven major service blocks:

I Education
II Personal Social Services
III Police
IV Fire
V Highway Maintenance
VI All Other Service
VII Capital Financing

The education and social services blocks are further broken down into sub-blocks (eg. the education sub-blocks are primary, secondary, post-16, under 5 and other education). A number of statistical indicators are used to assess needs within each service block, for example numbers of pupils and additional costs associated with sparsity of population.

The sparsity indicator is of particular interest to local authorities in rural areas. The white paper states:[87]

> It is difficult to develop an accurate measure of the additional cost of delivering services in rural areas and we have therefore decided to undertake research to provide better information on the factors which give rise to higher costs in both sparsely and densely populated areas... We will discuss with the Local Authority Associations whether it is desirable and feasible to modify the Standard Spending Assessments in the light of new research findings.

Research into sparsity for the DoE has been carried out by Salford University Business Services Ltd (SUBS). The Salford research is discussed in a DoE document published on 20 September 1996.[88] The basic findings were that the proportion of RSG currently distributed

---

87 P.25

88 Local Government Finance Settlement Working Group: Standard Spending Assessments Sub-group Report for 1997-98, chapter 10.

according to the sparsity indicator is fair, but that in the long term research should be carried out on the possibility of using a "settlement pattern indicator". This would measure the way the population was distributed in sparsely populated areas and could therefore perhaps give a better indication of additional costs than a basic measure of sparsity.

During the DoE's discussion of Salford's research with the local authority associations, the Association of Metropolitan Authorities presented its own research, carried out by KPMG, which challenged the importance accorded to sparsity by SUBS. The Association of District Councils also presented research, however: work by the Sparsely Populated Local Authority Team (SPLAT) suggested that "the shire districts faced higher costs in delivering some services; had bigger workloads and thus higher costs for other services; and under-provided some services in comparison with more urban authorities".[89] The Government has yet to announce its final decision on the treatment of sparsity in the standard spending assessments for 1997-98, but it seems unlikely that major changes will be made in the short term.

2. Capital Finance: County Farms

Local authorities may supplement the amount available to them to finance capital projects by using the money raised by selling capital assets. Under section 59 of the *Local Government and Housing Act 1989*, the Government places restrictions on the use of capital receipts by local authorities. When an authority receives a capital receipt, a part of that receipt (known as 'the reserved part') must be set aside by the authority in order to meet credit liabilities. In general, the council must reserve the following percentage of its capital receipts:

(a) in the case of a receipt in respect of the sale of council houses, 75%; and

(b) in the case of any other receipt, 50%.

The percentages above may be altered by regulations, which may make distinctions between different types of capital receipts and different types of authority. As part of the Private Finance Initiative the Government has amended the *Local Authorities (Capital Finance) Regulations 1990* [SI 1990/432] to bring about a targeted relaxation of the rules on the use of capital receipts by local authorities. The new measures have provided time-limited incentives for local authorities to dispose of specific classes of non-housing asset to the private sector, by reducing for a period the percentage of such receipts which must be set aside for debt redemption. The classes of asset affected have included local authority airport companies, bus companies, retail property and car parks.

The rural white paper announced that the Government intended to introduce special arrangements to allow county councils to re-invest the proceeds from the sale of county farms in support of rural policies.

---

[89] Ibid, p 277

County councils own about 5,000 agricultural smallholdings, or county farms, in England, with an open market value of up to £350 million. The original role of these farms was to provide a first rung on the farming ladder for new tenants but in practice, because of the very low turn-over of tenancies, only a very small number of vacancies arise each year. In addition, the Agricultural Tenancies Act 1995 is expected to lead to a significant increase in the area of land offered by private landlords for letting, including to new entrants.

Some councils have decided to retain their farms for their original purpose, perhaps having regard also to their value as a conservation or educational resource. Others, conscious of the significant amounts of capital tied up in these estates, have decided to dispose of some or all of them in order to release funds for other needs. Up to now these decisions have been taken in the light of the current requirement that local authorities must use half of the proceeds from any such sales to redeem debt.

In order to encourage all local authorities to make a balanced assessment of the future role, management and ownership of their farms and to develop coherent strategies for their future, we will introduce a special scheme under the Private Finance Initiative from I April next year. This will require only 10% of receipts from sales of county farms to be used to redeem debt, thus giving increased spending power to those local authorities making disposals. This special scheme will be limited to:

- sales of county farms where the sitting tenant is given the opportunity to purchase, before sale is offered to third parties; and

- transactions completed between I April 1996 and 31 March 1998.

Our aim is that the increased spending power made available to councils from the sale of farms should be targeted on initiatives to improve the quality of life in rural areas, in partnership with the private sector, for example by stimulating rural employment, enhancing the environment or improving local services. To encourage this, we will issue further guidance in 1996 on the types of partnership arrangements we believe should be supported.

The Government introduced regulations implementing these proposals in March 1996.[90] Guidance was also issued in March,[91] advising that the additional capital spending power made available on the sale of county farms should be targeted on initiatives to improve the quality of life in rural areas:

It emphasised the importance of responding to the identified needs and priorities of the area as a whole, consulting local interests as far as possible, and of supporting partnership arrangements involving the public, private and voluntary sectors.[92]

---

90 The *Local Authorities (Capital Finance and Approved Investments)(Amendment) Regulations 1996* [SI 1996/568], Regs 7 & 8, amending SI 1990/432. The Government announced on 30.10.96 that it had issued for consultation a draft consolidation of the local authority capital finance regulations, to come into effect in April 1997 [HC Deb Vol 284 c122]

91 Reinvestment of Receipts from the Sale of Local Authority Farms: DoE Guidance

92 Rural England 1996, Cm 3444, p17

Appendix: The Local Government Review in England

A. Background

A review of local government was announced by the then Environment Secretary Michael Heseltine in December 1990 [HC Deb 5.12.90, Vol 182, c319]. The *Local Government Act 1992* subsequently created the Local Government Commission which was to undertake a "rolling programme" of local government structure reviews in the shire counties. The Government had set out the advantages which it was claimed could follow from unitary status in a consultation paper [*The Structure of Local Government in England*, 21.4.91] but had stated that it did not intend to impose a blueprint for local government structure across the whole country. Consequently the Commission was to be given the task of "improving the structure of local government area by area, taking account of local views and the costs and benefits of the change" [HC Deb, 23.4.91, Vol 189 c901]. The Commission's recommendations would then be accepted (with or without modifications) or rejected by the Government, and any resulting unitary authorities would be created by Order under the 1992 Act.

The advantages claimed for unitary authorities were as follows. First, unitary authorities are more clearly responsible for the delivery of services, and more clearly accountable for the bill local people are expected to pay. Second, two tiers may lead to excessive bureaucracy and duplication of effort. Third, the Government are committed to developing the concept of enabling authorities. Councils will increasingly be able to take advantage of competition between those seeking to provide a service. It is, therefore, less important today to insist on councils of a particular size. Fourth, the Government intend to increase the momentum of their existing policies to enable decision making and responsibility to be more directly in the hands of the people. Fifth, the present structures of local government do not win universal favour with local people. who have their own ideas about what sort of structure would best reflect local loyalties and communities.

The Commission's initial programme was set out on 3.6.92 [HC Deb Vol 208 cc545-6W]. The "artificial" counties created by the *Local Government Act 1972* (which implemented the previous reorganisation in the shires) were to be among the first to be reviewed. Under the initial timetable the Commission's recommendations for local government reorganisation, if accepted by the Government, would have been implemented between 1994 and 1998. The review started in August 1992, in the Isle of Wight, and the review of the first tranche of shire counties was completed in January 1994.

Following widespread criticism of a perceived lack of consistency in the Commission's early recommendations, there was intense speculation during the summer of 1993 that the review would be abandoned, or truncated by allowing councils to "opt-in" to the review if they were unhappy with their current arrangements. In the event the Local Government Minister David Curry announced on 30.9.93 that the review was to be speeded up in order to "counter uncertainty about the future". The new timetable was announced on 22.11.93 [HC Deb Vol

233, cc8-10W]: the Local Government Commission was given a deadline of 31.12.94 for the completion of the review. Changes in the policy guidance given to the Commission emphasised the need for consensus on the benefits of change [Dep 9829].

In May 1994 the Local Government Commission announced that a massive public consultation exercise would be carried out in the areas still to be reviewed. The results of consultation were subsequently analysed by NOP on the Commission's behalf and were widely interpreted as indicating that, of the available options, public opinion favoured the status quo in most areas [see, for example, *Financial Times* 28.9.94 "Councils shake-up finds scant backing"]. In its progress report of December 1993 the Commission had already made clear its view that it would be "most unwise to press ahead with changes to create unitary authorities unless there is clear local support for change" [Renewing Local Government in the English Shires, HMSO, para 119]. It was not surprising, therefore, when the results of the consultation exercise led the Commission to recommend the status quo in most areas. One feature of the Commission's recommendations which had not been anticipated was the prevalence of "hybrid counties": counties which would have one or more unitary districts alongside the existing two-tier structure. The final reports for the remaining counties were issued in January 1995 and the Commission's recommendations involved 10 counties with wholly unitary structures (ie. abolition of the county council), 11 hybrid counties and 18 counties which would remain entirely two-tier.

The Government announced its decisions on the bulk of the Commission's recommendations on 2 and 21 March 1995 [HC Deb Vol 255, cc1183; Vol 257, cc 145]. It accepted the Commission's recommendations for most areas but announced that it intended to re-constitute the Commission and direct it to carry out fresh reviews in 21 districts. The Government wished to emerge from the review with a coherent structure in place and noted a common (but not universal) pattern in the Commission's recommendations: proposals for unitary authorities in a number of large non-metropolitan districts and status quo (two-tier) recommendations in rural areas. The Commission was to be asked "test the case for consistency" in 21 districts, most of which were large towns or cities where the Commission had declined to recommend unitary status. The Chairman of the Commission Sir John Banham, whose outspoken style had provoked criticism from some quarters, was in effect forced to resign; he was replaced by the then Chairman of the Audit Commission Sir David Cooksey.

The Local Government Commission published its final recommendations for the 21 districts on 19.12.95. Unitary status was recommended for 9 districts but rejected for 12. The Government announced on 14.3.96 that it would accept these recommendations, thus bringing the review of local government in the shires to a close.

All of the Orders implementing the Government's decisions on reorganisation have now been agreed by Parliament. 14 unitary authorities in the shire counties have been created to date, 13 are due to come into existence on 1st April 1997 and a further 19 on 1.4.98, making a total of 46. For further background on the local government reorganisation see Research Paper 95/84 *The Local Government Review in England.*

B. Unitary Authorities in the Shire Counties

County	Unitary Authorities	First Elections	Starting Date
Avon	Bristol	May 1995	April 1996
	S. Gloucestershire	May 1995	April 1996
	N.W. Somerset	May 1995	April 1996
	Bath & N.E. Somerset	May 1995	April 1996
Bedfordshire	Luton	May 1996	April 1997
Berkshire[93]	Bracknell Forest	May 1997	April 1998
	Newbury	May 1997	April 1998
	Reading	May 1997	April 1998
	Slough	May 1997	April 1998
	Windsor & Maidenhead	May 1997	April 1998
	Wokingham	May 1997	April 1998
Buckinghamshire	Milton Keynes	May 1996	April 1997
Cambridgeshire	Peterborough	May 1997	April 1998
Cheshire	Warrington	May 1997	April 1998
	Halton	May 1997	April 1998
Cleveland	Hartlepool	May 1995	April 1996
	Stockton-on-Tees	May 1995	April 1996
	Middlesbrough	May 1995	April 1996
	Redcar & Cleveland	May 1995	April 1996
Derbyshire	Derby	May 1996	April 1997
Devon	Plymouth	May 1997	April 1998
	Torbay	May 1997	April 1998
Dorset	Bournemouth	May 1996	April 1997
	Poole	May 1996	April 1997
Durham	Darlington	May 1996	April 1997
East Sussex	Brighton & Hove	May 1996	April 1997
Essex	Southend	May 1997	April 1998
	Thurrock	May 1997	April 1998

[93] On 22.5.96 the county of Berkshire was refused leave to appeal to the House of Lords against the Secretary of State's decision to create six unitary districts rather than the five recommended by the Local Government Commission.

County	Unitary Authorities	First Elections	Starting Date
Hampshire	Portsmouth	May 1996	April 1997
	Southampton	May 1996	April 1997
Hereford & Worcester	Herefordshire	May 1997	April 1998
Humberside	Hull	May 1995	April 1996
	N. Lincolnshire	May 1995	April 1996
	N.E. Lincolnshire	May 1995	April 1996
	East Riding of Yorkshire	May 1995	April 1996
Isle of Wight	The Island Council (unitary county)	May 1994	April 1995
Kent	The Medway Towns (Gillingham & Rochester)	May 1997	April 1998
Lancashire	Blackburn	May 1997	April 1998
	Blackpool	May 1997	April 1998
Leicestershire	Leicester	May 1996	April 1997
	Rutland	May 1996	April 1997
N. Yorkshire	York	May 1995	April 1996
Nottinghamshire	Nottingham	May 1997	April 1998
Shropshire	The Wrekin (Telford)	May 1997	April 1998
Staffordshire	Stoke-on-Trent	May 1996	April 1997
Wiltshire	Thamesdown (Swindon)	May 1996	April 1997

C. Unitary status rejected by the Local Government Commission on 19.12.95[94]

County	District
Cambridgeshire	Huntingdonshire
Devon	Exeter
Essex	Basildon
Gloucestershire	Gloucester
Kent	Gravesham Dartford
Norfolk	Norwich
Northamptonshire	Northampton
Nottinghamshire	Broxtowe Gedling Rushcliffe
Surrey	Spelthorne

Technical notes:

(a) All shire districts not listed here will remain within the current two-tier structure.

(b) Due to the way the *Local Government Act 1992* is drafted, unitary authorities in the shire counties are classified as districts or counties. The Island Council (the Isle of Wight) is a unitary county but all other shire unitaries will be districts. Thus unitary districts will co-exist with two-tier districts in the shires after reorganisation.

(c) In most areas where unitary local government is to be introduced, the existing shire district or districts will simply convert to unitary status: they will be *continuing authorities.* In a few cases, however, the change to unitary status is accompanied by boundary changes (eg. Bristol, York, Brighton and Hove) and the resulting unitary district will be a completely new authority. This distinction between new and continuing authorities is also a result of the drafting of the *1992 Act*.

---

[94] The Secretary of State announced on 14.3.96 that he accepted the Commission's recommendations [HC Deb Vol 273 cc695-700W]. The Secretary of State has the power to order fresh reviews where he does not accept the Commission's recommendation. He may not, however, impose unitary status unless the Commission has recommended it. More recently, the Secretary of State would seem to have implied that the status quo may not be a viable long-term option for Northampton: see *Local Government Chronicle* 31.5.96 "Northants in third unitary bid"

Please cut

Research Paper 96/98 **Section Code: HAS**

Title: The Local Government and Rating Bill 1996/97 [Bill 2 of 1996/97]: Local Government in Rural Areas

It would greatly help to ensure that Research Papers fulfil their purpose if Members (or their staff) would fill in and return this brief pre-addressed questionnaire. Negative responses can be as useful as positive.

For your purposes, did you find this paper:

	Very useful	**Quite useful**	**Not much use**
1.	☐	☐	☐
	Too long	**The right length**	**Too short**
2.	☐	☐	☐
	Clear	**Not always clear**	**Rather unclear**
3.	☐	☐	☐

Any comments? _____

_____

_____

_____

_____

_____

_____

_____

Name ..... **MP/Assistant to** .....
(Please print)

Please fold

INTERNAL

Miss Nicola Harland
House of Commons
Department of the Library
1 Derby Gate
London SW1A 2DG

Please fold

Recent Research Papers:

96/86	Unemployment by Constituency - July 1996	14.08.96
96/87	Sustainable Development: Agenda 21 and Earth Summit II	16.08.96
96/88	Parliamentary Pay and Allowances: The Current Rates	19.08.96
96/89	Unemployment by Constituency - August 1996	11.09.96
96/90	Defence Update	08.10.96
96/91	Defence Statistics 1996	11.10.96
96/92	Defence Employment 1994-95	11.10.96
96/93	The Unfair Terms in Consumer Contracts Regulations	15.10.96
96/94	Parliamentary Election Timetables	15.10.96
96/95	Unemployment by Constituency - September 1996	16.10.96

Local Government
Environmental Issues