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The Local Government Bill: Best Value and Council Tax Capping

Bill No 5 of 1998-99

This Bill, which is due to receive its Second Reading debate on 12 January 1998, would abolish compulsory competitive tendering (CCT) in England and Wales and replace it with a new duty to achieve "best value". Councils would have to achieve continuous improvement in performance. The Audit Commission would be responsible for external scrutiny of local implementation of best value. The Government or, in Wales, the National Assembly, would have extensive powers to intervene where councils were shown to be failing to achieve best value.

Part II of the Bill would abolish the current reserve powers to cap local authority budgets in England and Wales. It would replace them with more flexible powers which would, for example, allow the Secretary of State/National Assembly to reduce budgets over a number of years rather than in a single year only; take account of local budget increases over a number of years in deciding whether to impose a cap; or take account of factors such as an authority's performance in the delivery of best value in deciding whether to impose a cap.

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Summary of main points

The *Local Government Bill* is due to receive its Second Reading debate on 12 January 1998. Part I would abolish compulsory competitive tendering (CCT) in England and Wales. In its place Part I would create a new duty for local authorities to achieve "best value", a requirement to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In pursuance of this duty councils would have to conduct performance reviews and publish annual local performance plans. The Government or, in Wales, the National Assembly, would devise performance indicators and national standards for local government. The Audit Commission would be responsible for auditing local best value plans and would carry out best value inspections of authorities. The Government/National Assembly would have wide powers to intervene where councils were shown to be failing to achieve best value.

Part II of the Bill would abolish the current reserve powers to cap local authority budgets in England and Wales. It would replace them with more flexible reserve powers which would allow the Secretary of State/National Assembly to (for example)

- reduce budgets over a number of years rather than in a single year only;
- take account of local budget increases over a number of years in deciding whether to impose a cap; or
- take account of factors such as an authority's performance in the delivery of best value in deciding whether to impose a cap.

This part of the Bill would also provide part of the necessary framework for the Government's scheme to limit the payment of council tax benefit subsidy (a grant designed to subsidise the costs of councils which administer council tax benefit) to authorities which set council tax increases in excess of a specified threshold.

Parts I and II of this Paper set out the background to these proposals and describe key provisions of the Bill in detail. Part III gives details of the Government's proposal to create "beacon councils" which would be given freedom from certain central controls in return for exemplary performance.

References in this paper to Green and White Papers on local government are to the English Green Papers *Modernising Local Government: Improving Local Services Through Best Value* and *Modernising Local Government: Improving Local Financial Accountability* (March 1998) and the English White Paper *Modern Local Government: In Touch with the People* (Cm 4014, July 1998). Equivalent documents were published by the Welsh Office:

- *Modernising Local Government in Wales: Improving Local Services Through Best Value* (April 1998)
- *Modernising Local Government in Wales: Improving Local Accountability for Council Tax* (April 1998)
- *Local Voices: Modernising Local Government in Wales* (July 1998, Cm 4028)

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¹ Bryn Morgan, Social and General Statistics Section

I Best Value

A. Background

1. Compulsory Competitive Tendering

Compulsory competitive tendering (CCT) applies to a wide range of local authority services in the United Kingdom, known as 'defined activities'. A local authority or police authority, etc, can only carry out defined activities in house, through its own Direct Labour Organisation (DLO) or Direct Services Organisation (DSO), if the work has first gone out to tender and been won in open competition.

The first services to be subjected to CCT were construction, maintenance and highways work in England, Scotland and Wales, under the *Local Government, Planning and Land Act 1980*. It was extended to other blue collar services, such as refuse collection, ground maintenance and catering, by the *Local Government Act 1988*. Sport and leisure management became a defined activity through secondary legislation in 1989² and various blue collar activities were added in 1994.³

The Major government announced its intention to extend CCT to local authority white collar services in the *Citizens' Charter* in July 1991 [Cm 1559]. The services due to become subject to CCT, in a phased programme, were legal services, professional construction and property services (architecture etc), IT, finance, personnel and corporate and administrative services and (under a separate initiative) housing management. Corporate and administrative services were later removed from this list.⁴ Numerous delays occurred in the implementation programme due to the difficulty of applying the CCT regime to professional activities, where it is harder to define the service provided and overlaps between different activities are legion. The first phase of CCT for professional services was implemented in England in 1996. White collar CCT is currently in place for all London and English Metropolitan boroughs. Authorities affected by local government reorganisation were given extra time to implement white collar CCT and the Labour government decided to delay implementation further for activities where tendering was not already underway. In Scotland and Wales a general CCT moratorium was declared due to the April 1996 reorganisation.

The CCT regime contains various prescriptive elements which are designed to prevent authorities which want to keep services in house from subverting the competitive principles of CCT:

² SI 1989/2488

³ SI 1994/2884

⁴ HC Deb, Vol 250, 1.12.94, cc 879-880W. The remaining white collar services became defined activities under SI 1994/1671, 1994/2884, 1994/2888 and 1995/1915

- The tendering process is specified in detail in the legislation
- The 1988 Act introduced the concept of anti-competitive behaviour: in reaching a decision that the work should be carried out in-house the local authority should not act in a manner having the effect, or intended or likely to have the effect of, restricting, distorting or preventing competition
- DLOs and DSOs are required to keep separate accounts for each of the defined activities that they undertake, and to meet specified financial objectives. The financial objective for all DLO/DSO accounts is to break even, having first allowed for a 6% rate of return on any capital employed.
- If, after first giving an authority the opportunity to explain its actions, the Secretary of State is satisfied that the council has awarded work in house unfairly or has failed to meet the relevant financial objective, he may (for instance) require the work to be re-tendered or withdraw the council's power to perform the service in question in house.

A study of those blue collar services which were made subject to CCT under the *Local Government Act 1988*, commissioned by the Department of the Environment, contained the following findings:

CCT resulted in an average overall reduction in service cost of 6.5%

Reductions in costs were greatest in refuse collection, building cleaning and grounds maintenance

Street cleaning and school meals costs tended to rise following CCT

Where the service was performed in-house following the tendering exercise, there was a "significant impact on the pay and conditions of staff", including reductions in staff in 56% of cases, changes in hours in 51% of cases and changes in (or abolition of) bonus systems in 47% of cases, although basic wages were not generally reduced

Casualisation of the workforce grew and overall staffing levels fell by about 12%⁵

The authors of the study summed up the pros and cons of CCT as follows:

The major gains from competition were seen as the fact that it had forced local authorities fundamentally to review services; improved monitoring of standards; led to better knowledge of services and their costs; yielded some financial saving; reduced bureaucratic controls on DSOs, and been accompanied by clearer performance targets. The disadvantages were seen to be the prescriptive nature

⁵ Kieron Walsh & Howard Davis, *Competition and Service: The Impact of the Local Government Act 1988*, DoE, 1993, executive summary

of competition; increased complexity of management; and worsening of the position of the workforce. DSO managers felt that they were at a disadvantage in competition because of the tight regulations. The impact of competition on the way that local authorities were managed was seen to have been fundamental.

A study commissioned by the Equal Opportunities Commission, *The Gender Impact of CCT in Local Government*, found that CCT had a greater impact on employment levels and pay and conditions of female blue collar workers.⁶

The Labour Government's consultation paper *Modernising Local Government: Improving local services through best value* acknowledged that CCT has had positive effects, but suggested that because it was imposed and seen in isolation from other measures, these benefits have been offset by "a tendency to discourage local ownership and responsibility":

Compulsory competitive tendering... required authorities to consider the standard and cost of the services for which they were responsible, and widened the choices available as to how services were provided. It persuaded reluctant authorities to address difficult management issues that needed to be tackled. But under CCT service quality has often been neglected and efficiency gains have been uneven and uncertain, and it has proved inflexible in practice. There have been significant costs for employees, often leading to high staff turnover and the demoralisation of those expected to provide quality services. Compulsion has also bred antagonism, so that neither local authorities nor private sector suppliers have been able to realise the benefits that flow from a healthy partnership. All too often the process of competition has become an end in itself, distracting attention from the services that are actually provided to local people. In short, CCT has provided a poor deal for employees, employers and local people. CCT will therefore be abolished.⁷

2. Labour's Replacement for CCT: A New Duty of Best Value

Labour's attitude to CCT and the provision of services by local authorities was summarised in its 1997 manifesto:

The basic framework, not every detail, of local service provision must be for central government. Councils should not be forced to put their services out to tender, but will be required to obtain best value. We reject the dogmatic view that services must be privatised to be of high quality, but equally we see no reason why a service should be delivered directly if other more efficient means are available. Cost counts but so does quality.

Every council will be required to publish a local performance plan with targets for service improvement, and be expected to achieve them. The Audit

⁶ Summary Report, 1995, pp2-3

⁷ Department of the Environment, Transport and the Regions, 3.3.98, paras 1.4-5

Commission will be given additional powers to monitor performance and promote efficiency. On its advice, government will where necessary send in a management team with full powers to remedy failure.⁸

In June 1997 the Government published twelve provisional key principles underlying its intended replacement for CCT, "best value":

Best Value - 12 Provisional Principles (June 1997)

1. The duty of Best Value is one that local authorities will owe to local people, both as taxpayers and the customers of local authority services. Performance plans should support the process of local accountability to the electorate.
2. Achieving Best Value is not just about economy and efficiency, but also about effectiveness and the quality of local services - the setting of targets and performance against these should therefore underpin the new regime.
3. The duty will apply to a wider range of services than those covered by CCT.
4. There is no presumption that services must be privatised, and once the regime is in place there will be no compulsion for councils to put their services out to tender, but there is no reason why services should be delivered directly if other more efficient means are available. What matters is what works.
5. Competition will continue to be an important management tool, a test of Best Value and an important feature in performance plans. But it will not be the only management tool and is not in itself enough to demonstrate that Best Value is being achieved.
6. Central government will continue to set the basic framework for service provision, which will in some areas as now include national standards.
7. Detailed local targets should have regard to any national targets, and specified indicators to support comparisons between authorities.
8. Both national and local targets should be built on the performance information that is in any case needed by good managers.
9. Audit processes should confirm the integrity and comparability of performance information.
10. Auditors will report publicly on whether Best Value has been achieved, and should contribute constructively to plans for remedial action. This will include agreeing measurable targets for improvement and reporting on progress against an agreed plan.

⁸ *New Labour: Because Britain deserves better*, p34

11. There should be provision for intervention at the direction of the Secretary of State on the advice of the Audit Commission when an authority has failed to deliver Best Value.

12. The form of intervention should be appropriate to the nature of failure.⁹

On 4 December 1997 the Local Government Minister announced 37 pilot schemes for best value in England.¹⁰ The pilot authorities were given selective exemptions from CCT. In Wales pilot projects involving all but one of the 22 unitary authorities, plus a police authority and a fire authority, were announced on the same date.¹¹ In both countries the progress of the pilot schemes is due to be evaluated on an ongoing basis.

The Government's policy was further developed in the March 1998 Green Paper *Improving local services through best value*. Best value would apply to all services, not just the "defined activities" specified in the CCT legislation. The consultation paper stated that "the duty to obtain best value is designed to ensure principally that authorities provide the services that people require economically, efficiently and effectively". This would apply "irrespective of who it is that actually delivers those services", and it was intended that "competition will continue to play an important role".¹²

The following summary of the Government's policy as set out in the July 1998 White Paper, *Local Government: In Touch with the People* [Cm 4014], appeared in the DETR publication *Best Value Update* in September 1998:

SUMMARY of BEST VALUE PROPOSALS

Under the proposals, those authorities subject to the duty of best value will be expected to take all reasonable steps to ensure that the quality and cost of services properly reflect what local people want and can afford; that the efficiency and quality of services continually improve over time; and that in setting targets for service improvement they aspire to reach the standards of the best [...]

Under best value, the key test of the effectiveness of a modern council will be the extent to which it delivers local services that meet the needs of the local people. In so doing councils will need to be pragmatic in deciding who is best placed to offer local services and innovative in deciding how those services should be delivered. And they will need to report back to local people on how well those services are delivered, the extent to which they match up to the targets the

⁹ Reproduced in the Green Paper *Improving local services through best value*, Department of the Environment, Transport and Regional Affairs, 3.3.98, p9

¹⁰ DETR News Release 498/ENV "Successful 'best value' pilot authorities announced"

¹¹ HC Deb Vol 302 c307W. The one remaining unitary authority in Wales subsequently joined the pilot

¹² Ibid, paras 1.6, 2.2

authority has set, and how well that performance compares against that of comparable organisations.

The Government believes that authorities should have as much flexibility as possible within a broad legal framework. The best value proposals call for authorities to:

- produce annual **performance plans**, setting out their record of achievement, their plans and targets for the future and priorities in identifying services for review;
- subject all of their services to fundamental **review** over a five year period;

and in carrying out reviews:

- to challenge the need for a service to be delivered at all;
- to compare the levels of service being provided against the best available, both inside and outside the public sector;
- to consult their local community, in order to give them a real voice in determining the quality and type of services which they use and pay for;
- to ensure that services are competitive, in the sense that they bear comparison with the best and that competition, in whatever form, has been properly employed to bring about the continuous improvements in services that best value requires.

The regime will be supported by a robust system of annual audit (of Local Performance Plans) and periodic inspection (of reviews) which will ensure that councils are subject to vigorous external scrutiny. The framework will also provide the Secretary of State with a range of intervention powers, from which he will be able to select that most appropriate to address the individual failure concerned.¹³

The maxim that "the quality of services as well as their cost matters" is regarded by the Government as one of the key distinguishing features of best value:

Setting performance targets, as part of regular service reviews, and reporting achievement publicly against those targets in Local Performance Plans, will be fundamental in demonstrating whether best value is being obtained. And although the Government would support authorities in tackling performance failure, it would not hesitate to intervene more directly if authorities were reluctant to put matters right quickly and effectively.¹⁴

¹³ Best Value Update, DETR, Issue 3, September 1998

¹⁴ Ibid, para 2.1

The Green Paper stressed that Best Value was designed to bring about "cultural change" in local government: "a culture in which authorities decide what services are to be provided on the basis of what suits them as providers is not an option" [para 1.6] The most important aspect of such a change is the adoption of "a corporate view of what an authority wants to achieve and how it performs, measured against key indicators and the aspirations of the local community" [para 2.3]. This was described in the following terms in the White Paper:

Delivering local services to a consistently high standard at an acceptable cost begins with a council's vision for the local community. The council needs to be clear about the services which local people expect and the resources and opportunities available to deliver them. Most authorities recognise that providing everything themselves is both unrealistic and unnecessary. Nor can they achieve all that they want to do in a single year or even in several years. They need to establish priorities and to set them out clearly. These priorities will flow from engagement with the wider community, and from an authority's performance as an organisation and as a provider of services. It needs to know how its work relates to other service providers. It needs to know what local people think of its performance, and what others are capable of achieving, and it needs to know where improvements are most needed. To help authorities establish authority-wide objectives and performance measures, the Government will introduce a new framework of performance indicators, standards and targets.¹⁵

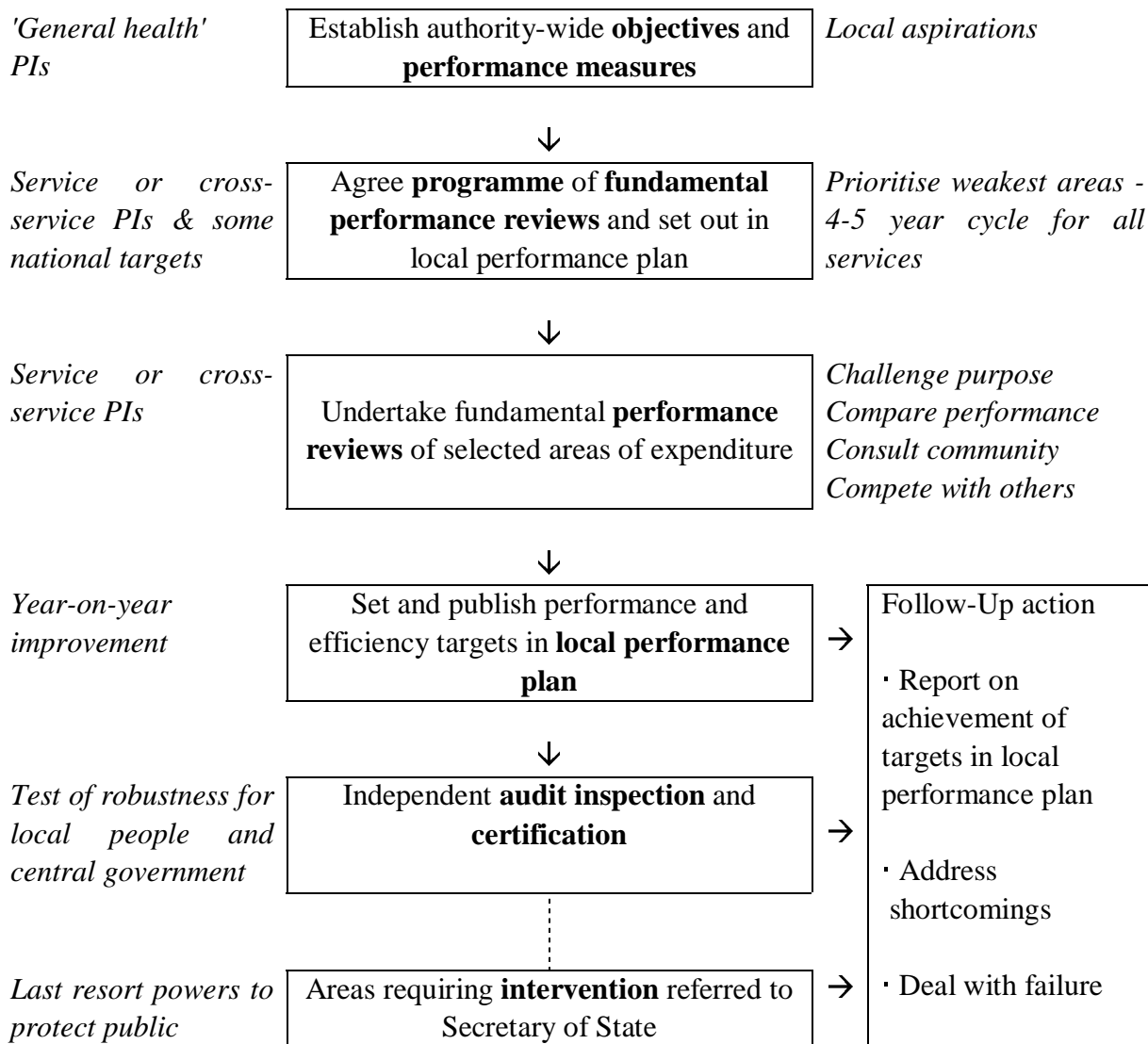
The White Paper contains the following diagram showing how local authorities are expected to manage the Best Value process [p65]:

¹⁵ *Modern Local Government: In Touch with the People*, July 1998, Cm 4014, para 7.8

The Best Value Performance Management Framework

National Focus

Local Focus



The detailed aspects of the best value regime are discussed in part I(B) of this paper.

3. Reactions to Best Value

The Shadow Local Government Minister, Richard Ottaway, has defended the introduction of compulsory competitive tendering and suggested that the Government's best value proposals are "confused":

Labour wants to move from what it tacitly accepts as a successful CCT programme, which had a limited service remit, to an all-embracing system covering virtually every area of council provision. But it is seeking to employ

subjective rather than objective criteria when it comes to measuring achievement, and this will ultimately lead to the project's downfall. [...]

[Labour is] wrong to believe CCT is only about price. Much of the principle contained in the best value proposals about service provision and standards is covered under the guidance for tender specifications and monitoring. Contractors failing to provide councils with what they ask for get penalised. It is the elected body of the council that determines what is needed locally, and it is the council that sets the standards of provision.

Much of the confusion surrounding best value is caused by the government being less concerned about efficient service provision than about controlling the behaviour of councils - particularly those run by Labour. [...]

The government [...] claims to be "committed to providing local authorities with the freedom to decide how best to deliver services", but goes on to threaten to impose itself on failing councils. So it seems the greatest freedom will be given only to those councils where the straitjacket is a snug fit.¹⁶

The Liberal Democrats have welcomed the proposed abolition of CCT but are opposed to the new powers of inspection and intervention which would be a central component of the best value regime:

There is no justification for intervention by the Secretary of State. Local performance plans and monitoring committees should make clear if there are failings and if the council is failing to do anything about it. Liberal Democrats would want to strengthen the rights of the citizen (such as a fairer electoral system) rather than strengthening the powers of the Secretary of State. We believe that the only reserve powers that should be specified for the Secretary of State should be the power to intervene in cases of maladministration, as defined by the District Auditor or Local Government Ombudsman.¹⁷

Reports in the national press on the best value proposals have tended to concentrate on the new powers of intervention for central government.¹⁸

The assistant general secretary of Unison, Keith Sonnet, commenting on the publication of the *Local Government Bill*, welcomed the proposed abolition of CCT. He went on to say: "It is a great pity that the government did not take the opportunity to return more financial control to local communities, rather than concentrating on the hit squad idea".¹⁹ Adair Turner, director-general of the CBI, welcomed the proposals on best value as set

¹⁶ *Local Government Chronicle*, 6.11.98, "Freedom in a straitjacket under elitism of best value"

¹⁷ *The Local Government Bill (Best Value and Capping)*: LGA Liberal Democrat Group policy briefing no. 14, December 1998

¹⁸ See, for example, *The Times*, 25.11.98, "Councils face 'it squads' "

¹⁹ Unison press release, 24.11.98, "Queen's speech reaction: Unison on Local Government Bill"

out in the White Paper. He said that "under best value we want to see more strategic outsourcing without in-house bids, more PFI and other forms of joint ventures".²⁰

There have been calls for equal opportunities to be incorporated "within the fundamental principles that underpin best value".²¹ The chairman of the Commission for Racial Equality, Sir Herman Ouseley, is reported as having said that the local government White Paper "didn't fill me with hope and inspiration for local government moving into the new millennium" as it did not contain specific measures for addressing inequality.²²

The Institute of Revenues, Rating and Valuation has welcomed the prospective replacement of CCT by best value. Its response to the Green Paper highlighted some of the financial implications of the best value regime, calling for the provision of additional resources in some areas in order to achieve best value and the abolition of capping in order to let local people "pay the price that they are willing to pay".²³

4. TUPE

The EC *Acquired Rights Directive* is designed to safeguard employees' rights in the event of transfers of undertakings, businesses or parts of businesses. It is brought into UK law by the *Transfer of Undertakings (Protection of Employment) Regulations 1981*²⁴ (commonly known as TUPE). Where the Directive or regulations apply, the contracts of employment of employees of the transferor (the seller) are automatically transferred to the transferee (the buyer). Thus, employees transferred from one employer to another continue to receive the same pay and conditions of service and their length of service is not interrupted by the transfer. Various other forms of protection are provided by the Directive and regulations.

The European Commission published proposals for an amendment to the *Acquired Rights Directive* in September 1994²⁵ and at the Social Affairs Council on 4 June 1998, agreement was reached on a revision of the Directive. The revised *Acquired Rights Directive* was formally adopted on 29 June 1998.²⁶

Uncertainty over the extent to which TUPE applies to contracting out by local authorities under CCT has caused considerable confusion and controversy. A series of decisions in the European Court of Justice have established that the regulations have a wider

²⁰ *Local Government Chronicle*, 7.8.98, "Labour wins CBI backing for white paper reforms"

²¹ *Best Value and Equal Opportunities*, Ramani Chelliah, Local Government Information Unit, March 1998, p9. See also IRRV response to the Green Paper *Modernising Local Government: Improving local services through best value*, May 1998

²² *Local Government Chronicle* 6.11.98, "Ouseley slams racism and best value failure"

²³ Response to the Green Paper *Modernising Local Government: Improving local services through best value*, May 1998, paras 5 and 15

²⁴ SI 1981/1794

²⁵ COM (94) 300 final, 9141/94

²⁶ 98/50/EC

application than originally thought. The *Local Government Bill* does not touch directly on TUPE but the Government is committed to reviewing TUPE in order to achieve

greater certainty in protecting terms and conditions of employment where work is transferred. And it is actively considering with its social partners in industry and the trade unions how pensions, in particular, can be properly protected if work transfers to another contractor, including through admitted bodies status.²⁷

The Environment, Transport and Regional Affairs Committee has stated that

The resolution of the current confusion surrounding TUPE will be essential to the successful implementation of the Best Value framework. We welcome the agreement of an amended EC Acquired Rights Directive which will establish some clarity on this issue, but we strongly urge the Government to take the necessary steps to implement the amended Directive to provide a clear and fair framework of employment standards within the next 12 months. This will be necessary to fit with the timetable planned for the introduction of Best Value. The Transfer of Undertakings (Protection of Employment) Regulations 1981 should be amended to apply to all service contracts in public services. We also recommend that the Government should ensure that the transferability of pension rights is protected, through the extension of the TUPE Regulations.²⁸

The Government's response to the Select Committee report affirmed its commitment to amending TUPE with the aim of building on the definition of transfer of undertakings contained in the revised Directive, "in order to achieve as great a degree of certainty and clarity as possible in the Regulations' application, including in contracting cases". The new regulations "will not diminish employees' existing rights". The DTI would consult interested parties with a view to achieving maximum possible consensus on the detail of the changes.²⁹

The Government response also noted that the revised Directive

gives Member States for the first time a clear option to make provision in their legislation for the inclusion of all occupational pension rights within the terms and conditions of employees which are to be protected. This is one of the matters to which the Government will be giving its attention in formulating the new regulations. We are aware that local government employers, unions and contractors have been jointly considering the options available for ensuring that transferring employees can retain the benefits of the Local Government Pension Scheme. Clearly this is one of the many factors that will need to be taken into account in this difficult technical area [para 29].

²⁷ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.25

²⁸ *Implementation of the Best Value Framework*, Eleventh Report, HC 705-I of 1997-98, para 101

²⁹ *Implementation of the Best Value Framework, Government Response*, Cm 4082, October 1998, para 28

B. Part I of the Bill

1. The Duty of Best Value

Part I of the Bill applies to England and Wales only. **Schedule 2** abolishes the statutory framework of compulsory competitive tendering (CCT).³⁰

Clause 3 of the Bill sets out the general duty of best value:

A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In deciding how to fulfil this duty, authorities would have to consult with representatives of local council taxpayers, non-domestic ratepayers, service users and others having an interest in an authority's functions. The Secretary of State, or, in Wales, the National Assembly, would be able to issue guidance on the consultation process. Different guidance could be issued to different authorities (**Clause 3(5)(b)**); this flexibility (which recurs in many of the central government/National Assembly best value powers in the Bill) would presumably enable the Government to issue more prescriptive guidance to authorities which it regarded as recalcitrant or adopt a lighter touch with authorities which had fully embraced the Government's modernisation programme.

The authorities to which the duty of best value would apply are defined in **Clause 1** as local authorities in England and Wales, including the proposed Greater London Authority and its functional bodies,³¹ and various other types of authority including police authorities and fire authorities.

The duty of best value will not apply to central government, the Welsh Assembly, or other public bodies such as the NHS. Nor will it apply to schools. The White Paper states that this is because a tighter framework for the regulation of schools is currently being developed, to include target setting by individual schools, OFSTED inspections and local education authority development plans.³² The Environment, Transport and Regional Affairs Committee considered it "somewhat perverse" to exclude schools since "they account for around 30 per cent of all local government spending and are one of the services most visible to the public".³³ The Committee also recommended that the best value regime should apply to other locally provided public services, "particularly where

³⁰ *Local Government, Planning and Land Act 1980*, Part III; *Local Government Act 1988*, Part I, s32 and Sch. 6; *Local Government Act 1992*, s8 to 11, Sch. 1

³¹ *Greater London Authority Bill*, Bill 7 of 1998-99. See Research Papers 98/115, 116 and 118. The proposed functional bodies are Transport for London, the London Development Agency, the London Fire and Emergency Planning Authority and the Metropolitan Police Authority

³² *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.7

³³ Eleventh Report, *Implementation of the Best Value Framework*, HC 705-I of 1997-98, para 24

there is joint working as in health and social services".³⁴ The Government's formal response to the Committee's report stressed the need to recognise "the different stakeholders and the different lines of accountability that may be involved in the provision of services by other public bodies, including Government and private firms".³⁵ Regarding schools, the Government stated that "best value will be obtained for expenditure incurred by schools themselves through... Education Development Plans and OFSTED inspections".³⁶

Although police authorities will not be exempt from the requirement to obtain year on year improvements in services, the White Paper states that

it would not be appropriate to expose to competition certain core statutory activities carried out by the police... Intervention powers will be available to Government to tackle serious or persistent failures in police services.³⁷

Clause 2 of the Bill contains various provisions enabling the Government (or, in Wales, the National Assembly) to vary the list of authorities which are subject to the best value regime, or to modify the regime in relation to specified authorities or types of authorities. For example, the local government White Paper stated that a statutory duty to obtain best value could be onerous if applied in full to smaller parish councils (known in Wales as community councils) and town councils.³⁸ **Clause 2(5)** would enable such councils to be exempted from the full duty of best value by order.

2. Performance Indicators (PIs) and National Standards

Clause 4 enables the Secretary of State/National Assembly to create by order performance indicators for local authorities. These will enable the Audit Commission to assess whether authorities are fulfilling the duty to obtain best value under Clause 3. The Secretary of State may also specify national standards which authorities must meet. Clause 4, like the power to issue guidance under **Clause 3(5)**, is drafted in such a way as to give maximum flexibility to the Government/Assembly, as different indicators and standards may be specified for different functions, different authorities and different times. In specifying performance indicators and national standards the SoS/National Assembly must have regard to any recommendations made by the Audit Commission.

Each authority will be expected to set targets in respect of these indicators and to publish both their targets and subsequent performance against them in annual local performance

³⁴ Ibid, para 97

³⁵ Cm 4082, October 1998, para 9

³⁶ Ibid, para 10

³⁷ Cm 4014, op cit, para 7.51

³⁸ Ibid, para 7.5

plans prepared under **Clause 6** (see below).³⁹ An example of the type of indicators the Government expects to issue is given in the White Paper:⁴⁰

| Best Value Performance Indicators | |
|---|--|
| Paying Housing Benefit and Council Tax Benefit | |
| ASPECT OF PERFORMANCE | INDICATORS |
| Strategic Objectives | To ensure x % of those eligible for housing benefit/council tax benefit receive full entitlement |
| Cost & Efficiency | Administration cost per claimant Percentage of new claims processed within 14 days |
| Effectiveness | Benefits overpaid as a percentage of total benefit expenditure Percentage of renewal claims for rent allowance processed without a break in service |
| Quality | The percentage of claimants who said benefits staff were helpful Percentage of new Housing Benefit claims processed within 14 days where the correct benefit entitlement was calculated |
| Fair Access | The percentage of claimants surveyed who said the claim form was easy to understand |

The Liberal Democrat group on the Local Government Association has said that the publication of annual performance plans will be an important mechanism for accountability to local people. But it believes that "national targets are bound to reflect the priorities of central government, which could be very different from [those of] the local community".⁴¹

The Environment, Transport and Regional Affairs Committee's report on best value touched on similar issues. It reached the conclusion that

The issue of performance indicators neatly exemplifies one of the dilemmas facing the Best Value regime: the tension between a need for a strong national framework and a desire for local flexibility and innovation. Performance indicators should be relevant and take proper account of differences in local authority circumstances. **We recommend that there should be full consultation between local government, the Audit Commission and the Chartered Institute of Public Finance and Accountancy over the development of national performance indicators. The Government should provide a clear indication of what performance indicators will be used in the Best Value framework prior to legislation being brought forward. These should be**

³⁹ See also *ibid*, para 7.10

⁴⁰ *Ibid*, p68

⁴¹ *The Local Government Bill (Best Value and Capping)*: LGA Liberal Democrat Group policy briefing no. 14, December 1998

designed to incorporate cost, quality and public expectation/perception measures.⁴²

Further indications as to the Government's plans for performance indicators under Clause 4 are given in its response to the Select Committee's report.⁴³

The provision for best value performance indicators has close parallels with the local government performance indicators developed under the Major Government's Citizen's Charter initiative. Under section 44 of *Audit Commission Act 1998*⁴⁴ the Commission issues a list of indicators which authorities must publish each year. For further details of the existing performance indicator regime see Research Paper 95/39. The current Bill does not repeal this provision and it is not clear how the two PI regimes will interact.

3. Local Reviews and Performance Plans

Best Value Reviews

Clause 5 of the Bill requires local authorities to conduct fundamental performance reviews, referred to in the Bill as "best value reviews". These will consist of an initial assessment of "whether functions are to be performed, how, by whom and to what standard", consistent with any statutory duties an authority may have. They are intended to make an authority assess its corporate aims: what its objectives are in relation to the exercise of its functions. The key elements are summarised as follows in a DETR *Best Value Update*:⁴⁵

Best Value Reviews: Key Elements

- Challenge: is this service needed? Are there better ways to achieve objectives?
- Compare: benchmarking and dialogue with users/ potential suppliers
- Consult: on ambitions for service, performance targets and means
- Compete: provide for competition where it makes sense to do so.

The Secretary of State/National Assembly may by order issue a statutory framework for best value reviews (**Clause 4(4)**). Guidance may also be issued. The statutory framework may include, in addition to the general requirements set out above, a requirement to:

- assess performance in relation to the Clause 4 performance indicators and national standards

⁴² Eleventh Report, *Implementation of the Best Value Framework*, HC 705-I of 1997-98, para 100

⁴³ *Implementation of the Best Value Framework, Government Response*, Cm 4082, October 1998, para 25

⁴⁴ Originally s1 of the *Local Government Act 1992*

⁴⁵ Issue 2, April 1998

- assess competitiveness in relation to other authorities and the private sector
- consult other authorities and the private sector about the exercise of functions

In the words of the White Paper, best value reviews will be expected to "embrace fair competition as a means of securing efficient and effective services" [para 7.18]. The key outcome of the reviews will be local performance indicators and targets set by the authority itself, and action plans detailing how these are to be achieved. An order setting out the framework for best value reviews may require an authority to assess its performance in relation to these local indicators and targets.

Best value reviews are intended to ensure that continuous improvements to all services are made, not just to those where there are serious shortcomings. Nevertheless the Government is particularly keen to see action on the weakest areas of councils' performance, as the White Paper makes clear:

The Government will require authorities to review fundamentally the performance of all their services over a five year period, making early inroads into areas of significant weakness. Where the performance of a service is demonstrably poor by any standards - and the framework of national indicators will highlight these - then authorities will be expected to review that service quickly and effectively. Where performance is poor but there are a number of areas needing attention, there may need to be some scope for phasing a review. There will also be a case for addressing some of the stronger areas of performance early, so that the lessons of success can be spread quickly. But it would be unacceptable for any authority to put off reviewing significant areas of weakness without good cause; that would be unlikely to find favour with the local community, risk congestion in later years, and itself constitute a failure to achieve best value.⁴⁶

According to the Explanatory Note to the Bill, the Government expects to specify under **Clause 5(2)** an initial time limit of five years for the completion of the reviews.

Clause 5 will give further impetus to the development of performance review in local government. A recent book by Rob Ball of Stirling University contains a detailed analysis of the role of performance review up to and including the Labour Government's best value initiative.⁴⁷

Once again, the order and guidance making powers given under this Clause are drafted flexibly, enabling the Government/Assembly to impose particular requirements on authorities where performance is poor.

⁴⁶ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.17

⁴⁷ *Performance Review in Local Government*, 1998

Local Performance Plans

Clause 6 requires authorities to produce annual best value performance plans, referred to in the Explanatory Note and elsewhere as Local Performance Plans (LPPs). These are intended to be "the main instruments by which best value authorities will be held accountable for delivering best value by their local communities".⁴⁸ Local action plans and targets emerging from best value reviews are expected to form a key part of the content of LPPs. The White Paper states that the plans will:

- report on current performance, including a comparison with the performance of other authorities;
- identify forward targets for all services on an annual and longer term basis; and
- comment on the means to achieve plans, including proposals for major capital projects and investments, and for the procedural and purchasing changes designed to improve performance.⁴⁹

A fuller description is given in the Explanatory Note. The White Paper also states that LPPs will need to reflect authorities' corporate objectives, including those of sustainable development and equal opportunities [para 7.32].

The Secretary of State/National Assembly will be able to specify by order what matters should be covered by LPPs; they will also be able to issue guidance on their form and content (**Clause 6(2), (4) & (5)**). Again, these powers are drafted flexibly to allow different requirements to be placed on different authorities.

4. External Audit of Local Performance Plans

The Government regards external scrutiny as an important feature of best value. **Clause 7** provides for the annual audit of LPPs by the district auditor (an auditor appointed by the Audit Commission from its own arms length agency District Audit or from one of the major private sector firms). The procedure under **Clause 7** and **Clause 8** (district auditors' fees and code of practice) is similar to that for the annual audit of local authority accounts set out in part II of the *Audit Commission Act 1998*,⁵⁰ although the specific powers to follow up the LPP audit in cases of poor performance would lead ultimately to action by the Secretary of State rather than, as at present, by the auditor himself or the High Court. The White Paper states that the LPP audit should provide a check on whether an authority's plans are realistic, "having regard to the resources available to the authority" [para 7.37].

⁴⁸ Explanatory Note Bill 5 - EN, para 25

⁴⁹ Cm 4014, op cit, para 7.31

⁵⁰ Formerly contained in part III of the *Local Government Finance Act 1982*

Audit of Local Performance Plans: Remedial Action (Clause 7(4))

The District Auditor may recommend that:

- the authority make amendments to the plan;
- the authority follow specific procedures in relation to the plan;
- the Audit Commission should carry out a best value inspection of the authority under **Clause 10** (see below); or
- the Secretary of State/National Assembly should intervene under **Clause 13** (see below)

Where the District Auditor recommends intervention by the Secretary of State/National Assembly under **Clause 13**, the authority must send to the Secretary of State/Assembly a statement of any action which it proposes to take as a result of the audit, including its timetable for such action (**Clause 9**).

5. Best Value Inspections by the Audit Commission

The White Paper states that, however rigorous the arrangements for local performance plan audits (to be carried out under Clause 7 of the Bill), "it is unrealistic to expect such audits always to provide the in-depth scrutiny of performance that best value requires" [para 7.39]. Therefore under **Clause 10** the Audit Commission will be able to carry out detailed inspections of authorities' compliance with all or part of the best value regime. The Secretary of State/National Assembly will be able to direct the Commission to carry out such inspections. It is intended that best value inspections will take two basic forms.

1. There will be a programme of inspections designed to assess the outcome of **Clause 5** best value reviews. According to the Explanatory Notes, these are intended to

- check that reviews have been carried out in accordance with legislation and statutory guidance; and
- assess whether the performance targets set for future years are sufficiently challenging to obtain best value.⁵¹

It will be for the Audit Commission to arrange its own programme of inspections of review outcomes, subject to any guidance which may be issued by the Secretary of State/National Assembly.

⁵¹ Bill 5 - EN, para 34

2. There will be ad-hoc inspections where an authority's performance overall, or in a particular service, "is considered to be well below that required, and there are no immediate plans within the authority to review the function or functions in question."⁵² These inspections may be instigated by the Government/Assembly, or by the Audit Commission itself following a recommendation by the district auditor under Clause 7.

In order to augment the Audit Commission's financial skills with specialist knowledge of particular services, it is intended that the best value inspections should build upon the Commission's experience of joint working with specialist inspectorates such as OFSTED (OHMCI in Wales), the Social Services Inspectorate (SSI) and Her Majesty's Inspectorate of Constabulary (HMIC).⁵³ The most developed example of this to date is the programme of joint inspections with the Social Services Inspectorate under section 37 of the *Audit Commission Act 1998*.⁵⁴

The precise way in which the Audit Commission's new best value responsibilities will co-exist with the work of the existing inspectorates is not clear from the current version of the Bill. If, for example, the district auditor discovers a serious failure to achieve best value in respect of education there is no formal power for him or her to recommend under **Clause 7** that OFSTED carry out an inspection.

The first stage of a financial management and policy review (FMPR) of the Audit Commission, which reported to Ministers in July 1998, identified the following criticisms of the Commission:

- Insufficient coordination between the work of the range of auditors and inspectors
- A lack of flexibility in the pursuit of local VFM [value for money] studies, with a significant number of local auditors not being equipped by training and background to mount such studies effectively
- Sensationalism in the presentation of national VFM studies, and exaggeration of the potential for savings.⁵⁵

These criticisms are clearly relevant to the new role of the Audit Commission in carrying out best value audits and inspections. The FMPR report noted that this role would be a demanding one, and made the following recommendations:

⁵² Ibid, para 35

⁵³ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.39

⁵⁴ See Research Paper 95/121

⁵⁵ *Quinquennial Financial Management and Policy Review of the Audit Commission: Prior Options Assessment*, DETR, Dep 98/1556, 17.12.98, p8. See also p23

There is a need for greater co-ordination of the work of inspectorates and audit bodies, particularly in the context of:-

- The Best Value proposals with their emphasis on local accountability for the whole activity of local authorities;
- Government encouragement, through the Better Government initiative, for cross-boundary working between services, including greater use of pooled funding;
- Growing involvement of local authorities and health bodies in initiatives crossing the boundaries of public and private sectors.

We suggest mounting a centrally driven study, linked with the Best Value project, of the existing pattern of audit, inspection and regulation with the object of putting in place a framework of working arrangements which among other things builds on existing arrangements and provides a means of resolving differences between the audit and inspection bodies involved. A task force approach may be necessary⁵⁶

In a Written Answer of 17 December 1998, the Local Government Minister, Hilary Armstrong, made a statement on the Audit Commission's proposed role in relation to best value. She said that the under the *Local Government Bill* the Commission will arrange for

the annual audit of Local Performance Plans, and for the inspection of local authorities' activities in areas other than those which are the responsibility of the existing specialist Inspectorates such as OFSTED, SSI and HMIC. The Commission will, however, work closely with these Inspectorates, as they do now, to ensure that all the necessary skills are brought to bear in securing best value.

To ensure that these new functions are fully co-ordinated with the work of the other Inspectorates, I confirm both our commitment to establish an Inspectorate Forum to discuss common inspection interests, and our intention to take a power in the Local Government Bill to enable arrangements to be made where necessary to ensure the smooth and efficient operation of the inspection process.⁵⁷

These commitments are intended to fulfil the principal recommendations of stage one of the FMPR. It is likely that the current Bill will be amended to incorporate the second commitment.

The Written Answer of 17 December announced that the Government will now proceed to the second stage of the FMPR, which will look at the "detailed organisation and procedures which will be best suited to the Commission as it continues its traditional

⁵⁶ Ibid, p10

⁵⁷ HC Deb, Vol 322, cc 639-640W

audit functions and embraces its new roles within best value". The Written Answer also announced that Helena Shovelton, the current Chairman of the National Association of Citizens Advice Bureaux, had been appointed as the new Chairman of the Commission.

The issue of coordinating and rationalising the "current proliferation of inspection functions" was also addressed by the Environment, Transport and Regional Affairs Committee in its report on *Implementation of the Best Value Framework*:

We recommend establishing a single inspection function for Best Value either through the merging of existing functions to form a single 'Standards Inspectorate' (as proposed by the Audit Commission); or through joint inspections. This should be balanced by an element of self regulation by local government. To secure an effective inspection of local education authorities and schools, it is essential that a positive partnership is established between the Audit Commission and the Office for Standards in Education (Ofsted).⁵⁸

The Secretary of State/National Assembly may issue guidance to the Commission on the conduct of best value inspections (**Clause 10(5)**). This power, as with parallel powers to issue guidance, etc elsewhere in Part I of the Bill, is drafted flexibly to enable different guidance to be issued in respect of different authorities.

The Audit Commission must issue reports on all best value inspections it carries out (**Clause 12**). Any failure by an authority to fulfil its best value duties must be identified in the report. The action taken in those circumstances will depend on the severity of the situation.

Response to Best Value Inspections (Clause 12)

Where the Audit Commission finds that an authority is not meeting the requirements of the best value regime:

1. The authority must acknowledge that finding in its next **Clause 6** local performance plan and specify any action taken in response.
2. The Commission may recommend that the Secretary of State/National Assembly should intervene under **Clause 13** (see below)

6. Intervention by Central Government or the Welsh Assembly

Labour's plans for best value have from the early stages incorporated the possibility of central intervention where councils fail. The 1997 Manifesto stated:

⁵⁸ Eleventh Report, HC 705-I of 1997-98, para 99

Government will where necessary send in a management team with full powers to remedy failure.⁵⁹

There are currently various powers which allow the Secretary of State to intervene when a local authority fails in a named statutory duty.⁶⁰ The Government has stated that existing "default" powers (except those relating to CCT) will not be affected by the powers it intends to take in relation to best value.⁶¹ In Wales these default powers will be inherited by the National Assembly. The default powers held by the executive are less wide-ranging than are sometimes supposed: there is at present no general power for the Government to "send in Commissioners" to take over all of an authority's functions, for example. In the past default powers have been used very rarely, although in England there has been a growing readiness to countenance direct intervention to enforce key aspects of government policy such as council house sales and educational standards. Some of the more important default powers currently in force are described below. Ministers also have the power in certain circumstances to order public inquiries into named local authority functions: these are not listed here.⁶²

Local Government Services: Default Powers Available to Central Government

- ***Education Act 1996:*** the Secretary of State may issue "appropriate directions", enforceable through the courts, to a local education authority (LEA) or board of governors where he considers that it has failed to carry out any of its statutory duties [s497]. He may also give such directions as he thinks expedient where he believes that an LEA or board of governors has acted or is proposing to act unreasonably in exercising its powers [s496]. New powers under sections 497A and 497B of the 1996 Act⁶³ enable the Secretary of State to ensure that an LEA's functions in respect of school pupils are carried out to an adequate standard, by directing an officer of the authority (rather than the authority itself) to take specified action or by directing him or her to arrange for functions to be carried out by a specified external provider. In an extreme case the Secretary of State could therefore "send in a hand-picked team of individuals, or a commercial company, to take over the running of an LEA".⁶⁴

⁵⁹ *New Labour: Because Britain deserves better*, p34

⁶⁰ A Written Answer of 11.4.84 set out a full list of the default powers which the Government was able to identify [HC Deb Vol 58, cc 249-255W]

⁶¹ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.50

⁶² In Scotland the Government has much wider powers to order inquiries and issue directions to local authorities which re in default of any of their statutory duties, under section 211 of the *Local Government (Scotland) Act 1973*.

⁶³ As inserted by s8 of the *School Standards and Framework Bill 1998*

⁶⁴ *School Standards and Framework Act - a summary, with comments on the main implications*, TEN (The Education Network), November 1998, p4

- ***School Standards and Framework Act 1998***: the Secretary of State can appoint additional governors to help run a failing school [s18]. Under s19 he has the power to order the closure of a failing school.
- ***Housing Act 1985***: the Secretary of State may administer the Right to Buy scheme where tenants are having difficulty exercising their rights [s164].
- ***Housing Act 1988***: Subject to a tenants' ballot the Secretary of State has the power to designate by Statutory Instrument an area of land as a Housing Action Trust [s60], thus removing housing within the area from local authority control.
- ***Children Act 1989***: the Secretary of State may issue directions enforceable in the courts where an authority is in default of its duties to children under the Act [s84].
- ***Local Authority Social Services Act 1970***: the Secretary of State may issue directions enforceable in the courts where an authority is in default of its community care responsibilities under the Act [s7D].
- ***Town & Country Planning Act 1990***: the Secretary of State may, after a local inquiry, take over the power of the local authority to prepare a development plan [s51].
- ***Public Health Act 1936***: the Secretary of State may issue directions enforceable in the courts where an authority is in default of its responsibilities under the Act, including the provision of mortuaries. He may take over these functions if the authority fails to comply [s322].

Clause 13 of the current Bill gives the Secretary of State/National Assembly a wide range of intervention powers in response to failures in performance. The White Paper contains examples of actions which would be available as appropriate:

Failure to Achieve Best Value: Default Powers

The Secretary of State/National Assembly would be able to require:

- "an authority to draw up an action plan for improvement, and deliver a specified level of improvement by a set date
- an authority to accept external management help;
- services to be put out to competition;
- services to cease to be provided directly by a local authority;
- responsibility to be transferred to another authority or third party in the case of serious service failure".⁶⁵

The White Paper sets out the circumstances in which the Government intends to use its Clause 13 powers. It implies that objective criteria of failure would be necessary:

⁶⁵ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.47

The Government will exercise these powers wherever there is serious or persistent failure in the delivery of services. An urgent need for intervention could arise, for example, where vulnerable groups of the population are affected and an authority is unwilling or unable to act sufficiently quickly to protect them. The Government will act on the basis of objective triggers that an authority has failed to achieve best value, or has failed to deliver acceptable standards of service, or has failed to take opportunities to reduce costs and increase quality. The Government accepts, however, that local accountability is best served by authorities themselves acting quickly and effectively to prevent poor performance and to tackle it where it occurs. It welcomes the [Local Government Association's] proposals to establish a new national improvement agency designed to improve services across the board and to reduce the need for intervention. The Government hopes this should make intervention the exception rather than the rule.⁶⁶

The Explanatory Notes states that the objective triggers for intervention by Government

will include not only reports by auditor and inspectors appointed by the Commission, but also other forms of inspection activity, including those undertaken by the Social Services Inspectorate, OFSTED (OHMCI in Wales), Her Majesty's Inspectorate of Constabulary and the Fire Inspectorate. They will also include information from other sources which give the Secretary of State concern about whether an authority is meeting the duty of best value. A very serious example of this might be where a child is harmed or put at risk whilst in local authority care; this might give the Secretary of State legitimate concern about the effectiveness of the Social Services Department of the authority in question, such that he may wish to order the authority to immediately review its operation of the function pursuant to clause 5, or perhaps, as is provided for by clause 13, to order an immediate inquiry.⁶⁷

Professor Martin Loughlin has noted that "although there is no novelty in the inclusion of widely-drafted default powers... in local government legislation", the function of such powers has changed:

Once designed simply as long-stops which would be used on very rare occasions or in accordance with conventional practices, they are now intended to be used extensively and vigorously.⁶⁸

The powers given to the Secretary of State/National Assembly under **Clause 13** would appear to be an example of this. The annual audit of local performance plans by the district auditor under **Clause 7** and the planned programme of best value inspections under **Clause 10** will provide a regular mechanism for bringing failures in performance to

⁶⁶ Ibid, para 7.48

⁶⁷ Bill 5 - EN, para 40

⁶⁸ Memorandum, House of Lords Select Committee on Relations Between Central and Local Government, *Rebuilding Trust*, Vol III, HL Paper 97-II of 1995-96, p129, para 32

the Government/Assembly's attention. The drafting of Clause 7 suggests that each year the district auditor must recommend whether or not the Secretary of State/Assembly should take action under Clause 13. The Audit Commission may under **Clause 12** make the same recommendation on completion of a best value inspection.

The White Paper sets out the Government's intention to establish a protocol with the Local Government Association to ensure that the process of intervention is consistent with the framework for central-local relations which was agreed last year.⁶⁹

The framework document states:

Where the Government considers that a local authority (or a local authority service) is falling below an acceptable standard, it will work with the authority concerned to secure improvements. The Government reserves its right to exercise any powers under statute to intervene in cases of service failure, and will discuss with the LGA its policy for the use of those powers, including how best to facilitate a supportive role for the LGA.⁷⁰

The use of specific default powers under previous legislation, of the type described above, "will be covered by any protocols agreed with the LGA but also appropriate to the nature and importance of the service at risk".⁷¹

7. Enabling Powers to Facilitate Best Value

Clauses 14 to 16 contain wide-ranging powers intended to allow the Secretary of State/National Assembly to facilitate the best value process. These powers are summarised below. Further detail is given in the Explanatory Memorandum.⁷²

Enabling Powers to Assist Compliance with Best Value

- Amendment or repeal of enactments (**Clause 14(1)**). This provision is similar to the power given in section 1 of the *Deregulation and Contracting Out Act 1994*.
- Creation of additional powers for local authorities (**Clause 14(2)**). This could be used, for example, to give authorities a general power to create companies through which to exercise their functions.⁷³

⁶⁹ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.49

⁷⁰ DETR News Release 430, 3.11.97, "Simpler government is central/local partnership aim"

⁷¹ White Paper, op cit, para 7.50

⁷² Bill 5- EN, pp 11-12

⁷³ Ibid, p11

- Creation of wider powers to contract out functions (**Clause 16**). This provision adapts the existing central government power under section 70 of the *Deregulation and Contracting Out Act 1994*. It could be used, for example, to enable authorities to contract out housing benefits determination work.⁷⁴

8. Anti-Competitive Behaviour

Section 17 of the *Local Government Act 1988* imposes a duty on local authorities to exclude "non-commercial matters" from the awarding of public supply or works contracts. The aim of this provision was to prevent councils from discriminating against contractors on political grounds by the use of contract compliance (eg. taking into account trading with oppressive regimes or the terms and conditions of the contractor's staff when awarding contracts). The prevention of contract compliance applies to all local government contracts, not just those affected by CCT. Section 18 provides a partial exemption for race relations matters: it is intended to ensure that s17 does not prevent local authorities, when awarding contracts, from carrying out their duty to promote equality of opportunity, good race relations and the elimination of unlawful racial discrimination.

The *Local Authority Tenders Bill*, an unsuccessful Private Member's Bill introduced by Oonagh King in 1997-98, would have enabled the Secretary of State, by order, to specify matters which would be exempt from the restrictions on anti-competitive behaviour. An article by Oona King in the *House Magazine* of 23 June 1997 stated that the non-commercial considerations which authorities would be able to take into account under the Bill include terms and conditions of employment, recruitment and training:

For example, when awarding a contract, a local authority would be able to consider whether the company concerned included an equal opportunities policy; whether training was offered to employees or whether a certain percentage of the workforce included long-term unemployed. The aims of this Bill are to enable local authorities, as the largest employer in many areas, to play a positive role in tackling unemployment, providing skills training, and promoting opportunity and fairness.

After the May 1997 election discussions took place on possible reforms to section 17 of the 1988 Act, involving the Local Government Association, the CBI and the trades unions.⁷⁵ The principal objective was to find areas of agreement about the use of contract compliance where this is conducive to the development of best value, for example in ensuring a well-trained and efficient workforce. At the same time the Department of the Environment, Transport and the Regions consulted informally on the reform of this provision. The July 1998 White Paper stated:

⁷⁴ Ibid, p12

⁷⁵ See *Municipal Journal* 16.1.98 "From conflict to co-operation" by Stelio Stefanou and Jack Dromey

Good procurement practice is essential if local government is to obtain real improvements to service cost and quality. This does not mean a single means of procurement or a single form of service delivery. The Government recognises the benefits that can flow from a dialogue between public, private and voluntary sectors on how to achieve the services that local communities require. Giving effect to this through real partnerships has implications for the way in which services are procured, managed and monitored, as well as for propriety and regularity. The Government will address these issues in Europe and at home, and it will create a climate where partnerships flourish. That is why it will continue to look for ways of modernising the procurement provisions in Part II of the Local Government Act 1988 in consultation with employers and trade unions. The Government will look for an early legislative opportunity to amend the list of factors which authorities can take into account in inviting tenders and awarding contracts, consistent with its European obligations and with the principle of the achievement of value for money.⁷⁶

In line with this commitment, **Clause 17** of the current Bill would enable the Secretary of State/National Assembly to specify by order matters which will cease to be "non-commercial matters" for the purposes of section 17 of the 1988 Act.

In addition to the requirements of section 17, contracts awarded by local authorities for certain public works and services above the relevant financial threshold are subject to the EU Public Procurement Directives, which require the use of objective and predetermined award criteria to award the contract in most cases, based on

- a) lowest price; or
- b) most economically advantageous tender.

Knight's Guide to Best Value and Competitive Tendering Law [looseleaf] observes that, under the Directives, "in limited circumstances conditions may be imposed in the contract awarded, for example, a requirement to use local labour or local suppliers, or to create new jobs" [C2048]]. *Knight's Guide* also suggests that the Directives offer scope for authorities to ensure that local employment practices are observed.

9. Commencement and Transitional Arrangements

Under **Clause 20** the best value provisions of the Bill will come into force one year after it receives the Royal Assent, or earlier by order. In order to give local people "a baseline from which to consider their authority's current performance, and to contribute to the first of the reviews of performance" required under **Clause 5**, the Government plans to require authorities to publish local performance plans (LPPs) under **Clause 6** early in the first financial year of best value. The White Paper states: "Authorities are encouraged therefore to prepare for change now".⁷⁷ The Government appears to be working towards a

⁷⁶ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.26

⁷⁷ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 7.52

target implementation date of 1 April 2000. It seems unlikely that the Bill will be passed by 1 April 1999 and it is therefore likely that the Government will use its power under Clause 20 to implement best value earlier than one year after Royal Assent.

According to the White Paper, the Government's intention was to repeal the CCT legislation at the same time as the new duty of best value came into force. It stressed the fact that Ministers' powers to enforce the CCT regime would be retained until its powers of intervention under best value (**Clause 13**) came into force. **Clause 18**, however, provides for the CCT legislation to be repealed on 2 January 2000. This date takes account of the final stages of the implementation timetable for white collar CCT in England. It is designed to ensure that where current regulations require contracts to have been awarded by 1 January 2000, the impending abolition of CCT on 2 January will not affect this deadline. However, where the deadline for award of contracts is 1 April 2000, the best value regime will, subject to Parliamentary approval, be in place instead. The Government also intends that the end of the local government review moratorium for blue collar CCT should not be affected by the abolition of CCT. Any unitary authorities which were created on 1 April 1998 will have to have awarded blue collar contracts by 1 October 1999. All contracts awarded under CCT will continue to be binding after CCT has been abolished.

In Wales all 22 unitary councils are taking place in best value pilot projects. It therefore seems likely that the moratorium on CCT which was introduced to coincide with the April 1996 local government reorganisation will remain in place until the formal abolition of CCT.

The 2 January 2000 abolition date for CCT will result in a period of just under four months, possibly longer, in which neither CCT nor best value is in place. Consequently **Clause 18(2)** provides temporary powers for the Secretary of State/National Assembly to issue guidance to local authorities during this transitional period:

This guidance will cover the way in which they exercise their functions and might include, for example, a consideration of how procurement and contractual arrangements should be approached in the light of the imminent application of the duty of best value.⁷⁸

Under **Clause 18(3)** authorities must have regard to any such guidance. As with many of the other powers to make guidance under Part I of the Bill, the power is drafted flexibly and will allow different guidance to be issued to different authorities. Nevertheless, the requirement that authorities should have regard to guidance is not a watertight enforcement mechanism. The Government may therefore choose to use its best value inspection and enforcement powers particularly rigorously on any authorities which are

⁷⁸ Explanatory Note [Bill 5 - EN], p12

seen to have exploited the short lacuna between the abolition of CCT and the implementation of best value.

II Council Tax Capping

A. Background

1. Capping Local Authority Budgets

Council tax capping is a mechanism contained in Chapter V of the *Local Government Finance Act 1992* by which the Government may limit the budgets of councils and other local authorities (ie police authorities and, in London and the metropolitan counties, fire and civil defence authorities). It works in most cases by specifying a maximum increase for an authority's budget where the authority is spending above the "standard" level specified by the Government (the **SSA**). It does not simply specify a maximum increase or level of council tax, and where an authority is spending below its standard budget, a very large increase in council tax may be possible within the capping limits. Indeed, even those authorities which spent at their capping limits in the previous year may be able to raise council tax by a significant amount as council tax only raises a small proportion of authorities' budgets.⁷⁹

Government powers to limit local government spending, known as 'ratecapping', were introduced by the *Rates Act 1984*. Before the advent of capping, the Conservative Government attempted to reduce local authority spending by withdrawing grants from high spending authorities, but the results were not wholly as desired since councils affected were able to increase their rates to compensate (at that time rates constituted a much higher proportion of councils' total income than council tax does today).⁸⁰

Capping remained in place through the 1980s and parallel powers were contained in the *Local Government Finance Act 1988* which replaced domestic rates with the community charge or 'poll tax' in England and Wales. One of the principal objectives of the poll tax was to increase the accountability of local government by making everybody contribute financially to the activities of local authorities. Thus it was hoped that local electors would limit council spending through the ballot box.⁸¹ The power of the Secretary of State to cap local authority spending was therefore presented, initially at least, as a transitional measure which would operate for a limited period after the poll tax was introduced. By the time of the Green Paper which contained proposals for the council tax, the replacement for the ill-fated community charge, a shift had taken place in the Conservative Government's thinking on capping: although the importance of capping during the transitional period was

⁷⁹ See Research Paper 98/66 for a fuller account of the current capping legislation

⁸⁰ See Tony Travers, *The Politics of Local Government Finance*, 1986, pp 145-7

⁸¹ See the Green Paper *Paying for Local Government*, Cmnd 9714, January 1986

emphasised once again, there seemed to be the hint that capping might prove of longer-term utility.⁸²

No tax will be acceptable if it is levied at very high rates as a result of excessive spending by local authorities. Central government has a duty to protect local taxpayers from unacceptably high bills as well as to control the level of public expenditure. The new system will therefore need to incorporate effective arrangements to ensure proper restraint in local spending and taxation.

In practice, sharpened accountability to the electorate has not by itself provided a sufficient restraint on expenditure; at least not during periods of change in the finance system and especially not at times when councils do not face elections. There was a substantial increase in local authority expenditure in 1990-91 [the year in which the community charge was introduced]. The Government therefore had to make use of their capping powers. This approach was effective in securing restraint in 1991-92.

Although the nature of the capping regime has changed on a number of occasions, it remains in place and would still appear to be unpopular with most local authorities.

In order to understand capping fully it is necessary to appreciate how it fits in with other aspects of local government finance, in particular **Standard Spending Assessments (SSAs)** which in addition to being the yardstick for capping as described above, provide the means by which the greater portion of Government grant is distributed to local authorities.

Local government obtains its revenue finance from a variety of sources, including government grant, council tax, the uniform business rate⁸³ and charges for services provided to the public. Councils may also make use of their reserves to fund their revenue spending. Specific government grants are given for those services which are, essentially, provided by local government for central government on an agency basis, such as the administration of Housing Benefit and Council Tax Benefit. For these services it is a simple matter to calculate the cost of the service, and the government grant covers virtually the whole cost of providing the service. Local government has more discretion over the running of its core services such as education and social services, and the distribution of government grant for these services is based on the Government's estimate of individual councils' needs given the total amount of **Revenue Support Grant (RSG)** which has been authorised by the Treasury for the country as a whole. This is where the SSA comes in.

⁸² *A New Tax for Local Government*, Dep 6993, 1991, paras 7.2-3

⁸³ Since 1990 business rates have been set by the Government, collected by local government, passed to the Government and redistributed to local government on the basis of adult population. The distribution of Revenue Support Grant is designed to dovetail with the redistribution of business rates and the standard level of council tax determined by the Government so that the three together, at the local authority level, equal the SSA. Thus the amount of income from business rates received by a council bears no relation to the concentration of business property in its area. For these reasons income from business rates is usually regarded as a form of government grant rather than a distinct form of income.

The SSA works by determining what an authority needs to spend in order to provide a "standard level of service". Government grant is then distributed to councils so that in order to meet this level of spending, they only need set the standard level of council tax prescribed by the Government. 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 that it treats the council unfairly in relation to other authorities?

The fact that SSAs and their equivalent in Scotland⁸⁴ only provide a relative assessment of need has been criticised in some quarters. For example, Arthur Midwinter suggests that

a proper attempt to cost a standard level of service would begin by defining the standard, and then calculate the cost of achieving it.⁸⁵

This might, of course, be even more complex than the current arrangements.

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

- I Education
- II Personal Social Services
- III Police
- IV Fire
- V Highway Maintenance
- VI Environmental, Protective & Cultural Services (EPCS)
- 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). The EPCS block is calculated differently according to the different services provided by each type of authority. A given block is relevant to an authority only if it is responsible for providing the corresponding service. For example, a shire county's overall SSA is based on all of the SSA blocks except Police: police forces outside London are now run by separate police authorities.

A range of demographic, geographic and social indicators are used to assess needs within the different service blocks, for example number of pupils, number of road miles, etc. The unit cost of providing a service is also assessed, using measures such as density of population and past spending patterns. The indicators used in SSAs come from a wide

⁸⁴ GAEs - Grant Aided Expenditure

⁸⁵ Local Government in Scotland: Reform or Decline?, 1995, p.37

range of sources including the 1991 Census, OPCS population estimates, the New Earnings Survey, unemployment figures, etc.

Although each relevant block is worked out separately, RSG is paid to authorities as a single sum and need not be spent in line with the different SSAs on which it is based. This presents a potential problem for a government which wants to prioritise funding for a particular local government service, education being the most obvious example.

As pointed out above, SSAs provide a yardstick for capping local authority budgets as well as determining how government grant is divided amongst councils. There are a number of important consequences of this dual function. First, councils which dispute the adequacy of their SSAs have very limited freedom to increase their income by means of additional local taxation because of the way the cap is calculated. Councils' room for manoeuvre is further limited by the high ratio of central grant to council tax in local authority funding: on average, around 4/5 of an authority's budget derives from government grants compared with 1/5 which comes from council tax. Authorities with high levels of social need and/or low property values are likely to have an even higher ratio of grant to council tax. This causes a 'gearing' effect: on average, a 5% increase in council tax will only produce an increase of just over 1% in an authority's budget. Quite apart from the existence of capping, this places a considerable political constraint on local government's ability to exert a significant influence on its spending levels.

The second major consequence of the dual use of SSAs is that in a prolonged climate of tough spending controls the "needs" aspect of SSAs may tend to be subsumed by the capping element. The Institute of Fiscal Studies describes this tendency as follows:⁸⁶

Caps depend on what central government thinks a local authority needs to spend to provide an (unspecified) standard level of service, known as the standard spending assessment (SSA). SSAs, in turn, are estimated by looking at the relationship between past spending levels and various socio-economic and demographic factors. However, if spending begins simply to reflect caps, and caps reflect SSAs that depend on past spending that was capped, the local finance system could become completely circular, ceasing to provide any of the information necessary to enable central government to distribute grant fairly.

The sensitivity of councils' budgets to changes in their SSAs is one of the main factors behind their lobbying to be given the power to raise a higher proportion of their income at a local level. Neil Kinghan, the director of local government finance at the LGA (Local Government Association), has commented:⁸⁷

It would be much better for local government if SSAs were not such a sensitive issue. Their importance to local authorities is a direct reflection of the degree of

⁸⁶ Options for 1996: The Green Budget, p.140

⁸⁷ *Local Government Chronicle* 11.7.97 "SSA referee"

control which central government exercises over local authorities' finances. Not only do SSAs largely determine the amount of grant that each authority receives but they were used by the last government as the basis of its decisions on the capping of authorities' budgets. So even the 23% of expenditure financed by the council tax is to a significant extent determined by an authority's SSA.

SSAs would matter much less if capping were abolished and if non-domestic rates were returned to local authority control: in other words, if local authorities had a real measure of responsibility for their own expenditure and were accountable to their electorate for their decisions. It is a central objective of LGA policy to restore that level of responsibility and accountability.

The Local Government Minister, Hilary Armstrong, was reported in the *Local Government Chronicle* in February 1998 as saying: "Councils must raise more of their own finance and be less dependent on central government. That is the real way to genuine local autonomy".⁸⁸ However, a senior official from the Department of the Environment, Transport and the Regions was recently reported as saying, while giving evidence to a Select Committee, that allowing councils to raise more of their own funds would not necessarily strengthen local autonomy.⁸⁹

Universal Capping

From 1991/92 to 1998/99 central government used a mechanism known as universal capping: the announcement of provisional capping limits before councils set their budgets in March. Councils were legally entitled to ignore the provisional limits when setting their budgets, but the Government would then use its formal capping powers against authorities which did so. This enabled councils to be sure that the budgets they set would not be capped: as the Institute for Fiscal Studies put it, universal capping allowed authorities "to budget to avoid capping by effectively capping themselves".⁹⁰ This is effectively what the majority of councils did. In 1997/98, for example, over eight out of ten authorities (83%) budgeted at the provisional capping limit set by the Government, compared with only 0.6% (three councils) who budgeted above the cap.⁹¹ Consequently the number of authorities formally capped ("designated for capping") once the universal capping system bedded down was very low.

Number of Authorities Formally Capped under the Universal Capping System

⁸⁸ 13.2.98 "Armstrong: public respect 'key to survival' "

⁸⁹ Report of evidence to the Environment, Transport and Regional Affairs Committee: *Local Government Chronicle*, 5.11.98, "DETR does U-turn on funding regime"

⁹⁰ Options for 1996: The Green Budget, p.136

⁹¹ *Impact of Capping on Local Service Provision*, Carl Emmerson et al, Institute for Fiscal Studies, Commentary 71, December 1998, p6

under the community charge ("poll tax"):

| | England | Scotland | Wales |
|---------|---------|----------|-------|
| 1990/91 | 21 | 0 | 0 |
| 1991/92 | 14 | 0 | 1 |
| 1992/93 | 10 | 0 | 0 |

under the council tax:

| | England | Scotland | Wales |
|---------|---------|----------|-------|
| 1993/94 | 3 | 1 | 0 |
| 1994/95 | 3 | 0 | 0 |
| 1995/96 | 10 | 0 | 0 |
| 1996/97 | 6 | 0 | 0 |
| 1997/98 | 3 | 0 | 0 |
| 1998/99 | 1 | 0 | 0 |

Universal capping has advantages and disadvantages for councils. Without the advance publication of provisional capping limits, councils which intended to budget above their standard spending assessments (SSAs) could not be sure that they would avoid being capped, and the budgeting process would become a kind of blind auction. On the other hand, universal capping has the effect of imposing capping across the board by ensuring that the vast majority of councils budget within a predetermined limit specified by the Government. Councils might feel that if capping principles were not announced until after budgets had been set, the Government might use capping as a genuine reserve power, only using it against authorities which set large increases.

2. Labour's Policy on Capping

Labour's 1997 Manifesto promised that "crude and universal" capping would be abolished, although "reserve powers to control excessive council tax rises" would be retained.⁹² In 1997/98 the Labour Government capped three county councils which set budgets above the provisional caps announced by the Conservative Government in 1996. Labour announced its own provisional caps for 1998/99 in December 1997⁹³ (and subsequently capped Derbyshire County Council), but confirmed that 1998-99 would be the last year of universal capping.⁹⁴

Substantial variations in Government policy on capping are possible without primary legislation. First, the announcement of provisional capping limits before councils set their budgets is not referred to in the legislation, so Labour was able to discontinue that practice in time for 1999/2000. Second, capping is a *power* and not a *duty* for the Secretary of State:

⁹² *New Labour: Because Britain deserves better*, April 1997, p.34

⁹³ HC Deb Vol 302: 2.12.97, cc162-3 (England); 10.12.97, c582W (Wales); 3.12.97, cc 216-8W (Scotland)

⁹⁴ HC Deb Vol 302, 2.12.97, c167

central government could decide not to use this power and capping would therefore be suspended without any change in the law being necessary. If this route was taken a future (or even the same) government would be able to re-introduce capping as it wished.

As noted above, the Labour Manifesto committed the party to the retention of a reserve capping power. The consultation paper *Modernising Local Government: Improving Local Financial Accountability* proposed new legislation which would enable central government to take account of a wider range of factors when determining which councils should be capped.⁹⁵ This would enable Ministers to consider the extent to which individual councils had implemented other Government policies such as best value; or to take into account the pattern of an authority's budgets over a number of years. Under the current legislation Ministers must base their decision on the current year alone. These changes resembled proposals which were discussed by the Conservative Ministers John Gummer and David Curry a few years ago: papers leaked to the *Local Government Chronicle* indicated that controls over an experimental group of "trust councils" might be relaxed if they met certain criteria relating to prudence and good management.⁹⁶ The proposals never became Government policy.

Labour's White Paper *Modern Local Government: In Touch with the People* suggested that other reforms proposed by the Government would give councils "a more robust democratic mandate to set taxes at the levels needed to deliver local services according to local priorities, of a quality and at a price local taxpayers demand and are willing to pay". Moreover, best value would ensure that council tax income was used efficiently and effectively. Therefore "crude and universal capping" would not be needed and local people would be able once again to have "more impact on their council's spending and taxation decisions".⁹⁷ However, the Government's belief in the need for a reserve capping power was reaffirmed:

Given its own strong interest in local government taxation and spending decisions, the Government must have reserve powers which will enable it to limit excessive council tax increases should circumstances make that necessary. Provided that councils act in a responsible way, the use of these reserve powers will very much be the exception rather than the rule. Should situations arise where a council's budget increase is judged excessive, either because the increase is particularly large or because the council falls short of the standards of efficiency and economy that people rightly expect for their public services, the Government will be able to respond.⁹⁸

The new reserve powers would be more discriminating. Ministers would be able to exclude defined categories of council from the impact of the reserve power: this would

⁹⁵ Department of the Environment, Transport and the Regions, 30.3.98, chapter 6

⁹⁶ "Promises of freedom", 15.7.98

⁹⁷ Cm 4014, July 1998, paras 5.7-8

⁹⁸ Ibid, para 5.9

appear to be a reference to the Government's proposals for "beacon councils" which would be given certain privileges in return for exemplary performance (see below). In addition,

The new legislation... will prevent inconsistency, and unfair or arbitrary focus on particular councils. It will need to meet the needs of a range of possible circumstances. The reserve power will also need to be capable of application to individual councils, or larger groups of councils if that proves necessary. The aim will be to allow limits to be put into effect earlier in the financial year than has been possible under current legislation.

The Government, therefore, will seek legislation to repeal the existing capping laws, and to take reserve powers:

- to look at a council's budget increases over a number of years, allowing it to exempt councils which had small increases in earlier years, or to limit the increases of councils which had cumulatively increased by more than a prudent amount;
- to allow councils whose increases were limited to reduce their budgets over a number of years, rather than requiring them to make the full adjustment in one year;
- where necessary, to require councils to reduce their budget requirement to below that in previous years or below their Standard Spending Assessments (SSA);
- to set no limits on increases by councils meeting certain criteria - for example those whose council tax was only a small proportion of the total council tax bill faced by local taxpayers, those with small budgets, those which provide only particular services; and
- to take into account factors such as the council's performance in the delivery of best value, the support of the local electorate for the council's proposed budget and whether the council has beacon status in deciding whether a council's budget increase is considered excessive [paras 5.10-11]

The Green Paper on financial accountability discussed various means of increasing the involvement of local people in councils' budget process, including

- Linking the budget-setting process to referendums. These might be triggered if an authority decided to breach a budget ceiling set by the Government. Alternatively a referendum might be triggered by a demand from a set proportion of councillors, or of the electorate.⁹⁹
- Changing the timing of elections to just before the budget was set (late February or early March) rather than just after (May).

⁹⁹ *Modernising Local Government: Improving Local Financial Accountability*, Department of the Environment, Transport and the Regions, 30.3.98, paras 5.9-5.25

These specific proposals are absent from the White Paper, although paragraph 4.8 states that the Government will confirm the power of councils to hold voluntary, non-binding referendums. If a council used this power to gain electors' endorsement of its budget strategy, the Government would be able to take this into account when deciding whether to impose a cap [para 5.11].¹⁰⁰

3. The Pros and Cons of Reserve Capping Powers

Over the years commentators have debated whether capping benefits the economy as a whole and if so, whether the Treasury is justified in reducing local autonomy in the interests of the economy. A recent report by the Institute of Fiscal Studies suggested that capping has led to annual aggregate spending by local councils being an estimated £1.2 billion lower than it would otherwise have been. On average, council tax bills were said to be an estimated 13 per cent lower than they would have been in the absence of capping, equivalent to £90 on a band D property. However, "spending restraint has been associated with deteriorations in the quality of local services". Capping was said to have had a greater effect on some services than others: "education and social services budgets were hit harder than spending on the police."¹⁰¹

A number of political and practical arguments against capping have been put forward by the Institute for Fiscal Studies and other bodies and individuals.

1. "Placing central limits on the amount of public spending local communities can vote for" is akin to "rationing an individual's consumption of a private good such as clothing or heating and is inefficient because it prevents individuals or local communities from choosing a quality of local service for which they would be willing to pay the full economic cost through higher local tax bills".¹⁰²
2. Capping may encourage authorities to place too great a reliance on user charges, since income from charges does not count towards the council's budget for capping purposes.¹⁰³ User charges are likely to hit some local people harder than others, and the potential revenue from charges varies from council to council.
3. Capping is said to damage the process of competition between parties at the local level due to the inability of rival parties credibly to promise to deliver higher spending or

¹⁰⁰ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 5.11

¹⁰¹ Carl Emmerson et al, *Impact of Capping on Local Service Provision*, Commentary 71, December 1998, p1. The IFS paper cites a study of budget limitation of local authorities in Chicago which found "some limited evidence that tax limits [...] reduced students' test scores in mathematics": Thomas A Downes et al, *Do Limits Matter? Evidence on the effects of tax limitations on student performance*, *Journal of Urban Economics*, Vol 43, pp. 401-17

¹⁰² *Modernising Local Democracy: A Response to the Government's Consultation Process on Local Government*, Carl Emmerson & John Hall, Commentary 70, May 1998, para 3.1

¹⁰³ *Ibid*, para 3.2

lower taxes. This argument has also been advanced by Conservative councillors amongst others.¹⁰⁴

4. Universal capping may encourage traditionally low-spending authorities to 'spend up to cap' to maximise their freedom for manoeuvre in future years [para 3.4]. This phenomenon was also noted in the 1993 Audit Commission report *Passing the Bucks*.¹⁰⁵
5. The replacement of freely-chosen local spending levels by centrally determined budgets may undermine the integrity of the methods currently used to distribute local authority grant through the calculation of SSAs.

In its Memorandum to the ad-hoc Lords Select Committee on Relations Between Central and Local Government, the Treasury argued in favour of the retention of capping on macro-economic grounds.¹⁰⁶ The Hunt Committee's report found that the Treasury's evidence put forward three substantive arguments that local authority taxation has macro-economic effects.¹⁰⁷ These were:

1. changing council tax affects levels of benefit (ie. the amount of council tax benefit payable: this is funded by the Treasury);
2. it also affects the RPI, and hence other Government spending;
3. given the Government's own expenditure targets, releasing local authority self-financed expenditure from direct control would require adjustments elsewhere to compensate.

The first two were rejected on the grounds that (inter alia) the knock-on effect of council tax increases would be very small. With regard to the third argument, the committee noted that the Government already excludes substantial elements of general expenditure from the control total on the grounds that they are cyclical:

These cyclical elements total £44 billion, approximately three and a half times the total of projected local authority self-financed expenditure. Hence, even if such expenditure were to double it would still remain less than the other elements excluded from the control total. We also note that international experience shows that other economies can be successful while doing things differently; and that local government self-financed expenditure has been in and out of the control total over time [ibid]

¹⁰⁴ See, for example, *Local Government Chronicle*, 10.3.95, "Curry rejects calls to abolish capping"

¹⁰⁵ *The Impact of Standard Spending Assessments on Economy, Efficiency and Effectiveness*, Volume 1, p.28

¹⁰⁶ HL 97 of 1995-96, "Rebuilding Trust", Vol II, p280. See also *Local Government Chronicle*, 3.5.96 "The definition of public spending" by Michael Chisholm and Derek Thomas

¹⁰⁷ *ibid*, Vol I, p44. The argument that that local authority taxation has macro-economic effects because it forms part of government expenditure is dismissed summarily: "there is no reason why local authority expenditure must necessarily be lumped in with central government expenditure"

The committee came to the conclusion that universal capping should be abolished but argued for the retention of a reserve capping power:

The clear view of our evidence is that capping distorts local finance, contributing to confusion in accountability, and restricting the ability of local authorities to take financial responsibility and to be experimental and innovative. Whatever the past justification for capping, it is in our view no longer necessary. We recommend that it be discontinued as a standard procedure, although there should remain a reserve power to cap where an authority has set a clearly unreasonable budget. We recommend that the question whether a budget is "clearly unreasonable" should be for the new committee of Parliament¹⁰⁸ to consider, on a proposal in each case from the relevant Secretary of State [ibid, p47].

Like the Hunt Committee, the Institute for Fiscal Studies has emphasised the fact that council tax only represents a small proportion of general government expenditure. Local authority self-financed expenditure, most of which is accounted for by council tax, represented 4.3% of general government expenditure in 1997-98.¹⁰⁹ The bulk of council tax revenue is accounted for by the amount local authorities would be expected to raise if they set their budgets at the level of their SSAs: "Within England and Wales, aggregate local authority expenditure exceeds aggregate SSA by £2.5 billion, less than 1 per cent of public spending" [ibid]. Even if it is accepted that central government has a legitimate interest in controlling local authority self-financed expenditure, the Institute suggests, this does not justify the retention of "such a blunt policy instrument as capping".

The IFS sees a possible justification for keeping reserve capping powers, as proposed by the Government, in a situation where either the local government finance system fails to "provide local councils with the correct incentives to make economically efficient spending decisions" or where local councils are not properly accountable to their electorates. Once other accountability measures have been introduced, however, the IFS suggests that the economic case for retaining reserve capping powers "may be less obvious".

Even if reserve capping powers were never exercised, their retention introduces considerable uncertainty into the local finance process as local councils attempt to estimate how much they can spend without attracting the cap, entering into a budgetary game of 'chicken' with central government [ibid, pp 17-18].

Nevertheless, the IFS suggests that reserve capping powers might prove useful while the Government's accountability reforms were 'bedding down'. It is not clear what level authorities would choose to budget at if universal capping was removed. Some would undoubtedly spend more but others might choose to spend less. It is likely that the Government would be blamed for higher council taxes in some areas during the transitional

¹⁰⁸ The committee recommended on pp22-3 the creation of a new permanent Parliamentary committee with oversight of central/local relations

¹⁰⁹ *Modernising Local Democracy: A Response to the Government's Consultation Process on Local Government*, op cit, p17

period, so reserve capping powers might provide an 'insurance policy'. In addition, if a large number of councils attempted to reverse the effects of several years of capping in one year, this would lead to a significant increase in local spending in that year.

The sixth chapter of Labour's consultation paper *Modernising Local Government: Improving Local Financial Accountability* was entitled "Looking after Government's interest". It argued that although the Government intended to give councils greater local autonomy, it would still have "a strong interest in local government's tax and spend decisions" and therefore intended to retain a reserve capping power. The Government's policy was explained as follows:

Local authorities are responsible for a significant proportion of public spending, covering some key services. Government is concerned that authorities should operate efficiently, effectively and economically in delivering their outputs. Also, the bulk of local spending is, and will continue to be, financed by the national taxpayer, so there is a very high degree of interconnection between central and local decisions. The Government's aim is for the delivery of effective, good value service while keeping the overall burden of taxation as low as possible.

Central government will also have an interest in ensuring that local government's spending contributes to the achievement of national policy objectives. This is sometimes best achieved by targeting funding through the use of specific grants. But, in general, the Government remains of the view that the main source of grant income for local authorities should be channelled through block grants which are not tied to particular forms of spending.

There will always be a degree of tension between the interests of people locally and the nation as a whole. Or in organisational terms, between the aspirations of central and local government. No changes to improve local accountability could ever fully resolve that tension, but that does not mean that the relationship has to continue in exactly the same way as it has during most of the 1990s. The Government wishes to see this tension minimised by a modern approach which puts more trust in the accountability of councils to their people.

The Government is therefore committed to ending crude and universal capping. In particular, with the improved accountability that will flow from the measures described here and in the other consultation papers in this series, the Government will not in advance tell every single authority in the country how much it may spend. But it will retain a reserve power which will be able to limit excessive council tax increases should circumstances make that necessary.

Under the reinvigorated and more accountable system of local government which Government hopes to see in place, reserve powers to intervene in local tax decisions would need to be used rarely, if at all. The achievement of such a system depends on local government collectively and local authorities individually sharing responsibility. The Government believes that the local government community will want to play its

part. But the Government will need to be able to respond to situations where budgeting decisions are excessive or where authorities fall short of the standards of efficiency and economy that people rightly expect from their public services.¹¹⁰

There has been considerable speculation in the press that as part of their ongoing policy review, the Conservatives might decide to oppose capping in order to promote local autonomy, but to date there has been no firm indication of this.¹¹¹

The Government's intention to keep a reserve power to cap authorities' budgets has been criticised by the Liberal Democrats and the Local Government Association remains committed to the total abolition of capping. A press statement summarising the LGA's response to the finance consultation papers stated:¹¹²

We welcome the restatement of Labour's manifesto commitment to abolish crude, universal capping. However, local government does not want to see this replaced by a new combination of central controls of the kind envisaged in these papers.

The Liberal Democrat group on the LGA stated that¹¹³

The use of reserve powers effectively means the retention of capping, to which we are vigorously opposed. The Government's agenda is to make local authorities accountable to their communities, but this cannot be achieved unless councils are given complete freedom from financial controls to enable them to respond to local needs.

The Liberal Democrat local government Parliamentary team's response to the consultation papers questioned why local people would "bother to vote in a referendum on local spending decisions, if they know at the end of the day central government will make the final decision about the level of council tax increases".¹¹⁴

At present the high gearing ratio (the high ratio of government grant to locally raised income), which stems primarily from the "nationalisation" of business rates in 1990, provides authorities with a strong disincentive to raise council tax by excessive amounts, as the level of increase necessary to achieve a substantial increase in authorities' budgets is in most cases politically unacceptable. This effect is entirely separate from the operation of the capping procedures. The White Paper on local government rejected total local control over business rates, but suggested a power for authorities to charge a limited local rate on top of the national rate (councils would also have the power to give a local rates discount).¹¹⁵ This

¹¹⁰ Department of the Environment, Transport and the Regions, 30.3.98, paras 6.2-6

¹¹¹ See for example *Local Government Chronicle*, 4.3.98, "Fowler promises policy scrapping"

¹¹² "Financial reforms essential to revitalise local government - LGA", 2.6.98

¹¹³ *Financing Local Democracy: The response of the LGA Liberal Democrat Group to the Government's consultation papers on local government finance*, 1.6.98

¹¹⁴ Undated, p5

¹¹⁵ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 10.8

would reduce gearing ratios for some authorities, depending on the size of the local business base, which would allow them to derive a greater benefit from a given percentage rise in local taxes.

4. Limiting Council Tax Benefit Subsidy

Local authorities administer council tax benefit (CTB) which helps people with low incomes to meet the cost of the council tax. Those on Income Support receive 100% of their council tax costs through CTB. Councils receive a direct subsidy from central government of 95% of the cost of providing CTB. It therefore follows that the higher the council tax an authority sets, the more the government's subsidy will be. On average, around one sixth of any increase in council tax is met by the Exchequer through CTB subsidy. The Government intends to change the arrangements for CTB subsidy as part of its drive to increase local financial accountability:

A council which levies high council taxes should not be able to rely in this way on the national tax payer to pick up the bill in its entirety for the escalating council tax benefit costs resulting from its own decisions. Moreover, the more fully the national tax payer meets such costs, the more obscured is the link between local spending and local taxation.

The Government will, therefore, set each year a guideline increase in council tax which would be eligible for council tax benefit subsidy, but above which any increase will be partly ineligible.¹¹⁶

The restriction on the subsidy of councils' CTB bills above a certain level will not affect the amount of benefit received by individuals.

One argument against limiting council tax benefit subsidy is that, all things being equal, it would penalise deprived areas: since these have a higher proportion of council taxpayers in receipt of CTB, any restriction of CTB subsidy will have a greater effect on them. The White Paper states, however, that poorer areas will be protected:

Councils with above average proportions of residents receiving council tax benefit [will not be] affected more severely than a council with an average proportion of residents in receipt of the benefit [para 5.19].

The Government's proposals will affect high spending councils which believe that their Standard Spending Assessment increase does not adequately meet their spending needs. Many such councils will be in poorer areas. The extent of the effect depends on the threshold for the partial withdrawal of CTB subsidy and the rate at which benefit is withdrawn above that level (the taper). The lower the threshold and the steeper the taper, the more councils will be affected.

¹¹⁶ Ibid, paras 5.18-19

The Government's detailed proposals for limiting council tax benefit subsidy in England were issued at the time of the local government finance settlement.¹¹⁷ As stated in the White Paper, the Government will set each year a guideline increase in council tax which will be eligible for CTB subsidy, but above which any increase will be partly ineligible. The guideline for 1999/2000 will be a 4.5% increase in council tax, or the cash increase in an authority's SSA, whichever is the greater.¹¹⁸

The taper will operate as follows. For each additional half of one per cent increase in council tax above the 4.5% guideline, one eighth of the council's CTB subsidy on the total increase above the threshold will be withdrawn, as shown in the following table:

Limitation of council tax benefit subsidy

| Increase in council tax | Amount of Govt. subsidy of increase withdrawn |
|-------------------------|---|
| Greater than 4.5% | 1/8 |
| Greater than 5% | 1/4 |
| Greater than 5.5% | 3/8 |
| Greater than 6% | 1/2 |
| Greater than 6.5% | 5/8 |
| Greater than 7% | 3/4 |
| Greater than 7.5% | 7/8 |
| Greater than 8% | All subsidy withdrawn |

The guideline and taper will operate as described above for authorities with an average or below average proportion of income from CTB subsidy. To moderate the effect on local authorities with a high proportion of CTB subsidy income, they are treated as if they had an average proportion of such income (around one sixth of total council tax income). Therefore the cap is less severe than their actual level of CTB subsidy income would imply.

From the year 2000/01, the cap will operate by reference to cumulative increases since 1998/99. Details of how the threshold will alter are not yet available, but a paper produced by DETR states that

Councils will gain no advantage by going up to the guideline in 1999/2000 because they will in effect be able to carry over any margin below their guideline into 2000/2001. Similarly councils will not be able to create headroom for future years by making a large increase in 1999/2000 because that will also count

¹¹⁷ DETR letter to local authority chief executives, "Council tax benefit subsidy limitation", 2.12.98. A further letter was issued on 15.12.98

¹¹⁸ The ability to exploit the full increase (if any) in the SSA without incurring penalties is similar to the principle of "passporting" included in the universal capping system since 1996/97. See Research Paper 98/66, pp 12-13

against the guideline for 2000/2001. Details of guidelines for future years will be provided to local authorities when they are set.¹¹⁹

In contrast to the way universal council tax capping has worked in recent years, a council which increases its council tax above the threshold will have part of its CTB subsidy withdrawn even if the resulting budget is lower than the council's SSA. The scheme will also take account of council tax increases by town and parish councils: ie. a district council may in some circumstances have CTB subsidy withdrawn because of the spending decisions of local parish councils.

The appendix gives exemplifications of the effect of the scheme in England on a number of authorities.

The scheme for Wales is different from the English scheme.¹²⁰ The scheme operates by allowing maximum *budget* increases before CTB subsidy is capped rather than maximum *council tax* increases. The budget increase threshold of 5.9% will on average allow councils in Wales to increase their council tax by 7.2%, but individual authorities may be able to increase their council tax by more or less than that amount. Budget increases of above 5.9% will result in a reduction in the council tax benefit subsidy on that increase of 50%: there will be no gradual taper as in England. As in England, SSA increases will be passported: ie an authority will be able to use its full SSA increase without CTB subsidy being withdrawn, even if that implies a budget increase of more than 5.9%. Town and community council spending decisions are *not* taken account of under the Welsh scheme. The scheme will apply in Wales in 1999/2000 in accordance with the rules drafted by the Welsh Office but it will be up to the National Assembly how to operate the scheme (if at all) in future years.

The main rules for the operation of the CTB subsidy limitation scheme in England and Wales will be introduced by secondary legislation and directions from the Secretary of State. Primary legislation is, however, needed to ensure that councils which administer council tax benefit (shire and metropolitan districts, unitary authorities, London boroughs) are not penalised by the spending decisions of major precepting authorities (counties, police authorities and the proposed Greater London Authority, for example). **Clause 24** of the current Bill introduces provision to this effect (see below).

There is nothing to stop the Government using its current or proposed reserve capping powers under the *Local Government Finance Act 1992* on authorities which have already had grant removed under this system.

¹¹⁹ Supplementary paper attached to DETR letter to local authority chief executives, "Council tax benefit subsidy limitation", 15.12.98

¹²⁰ Welsh Office letters to local authority chief executives: "Council tax benefit subsidy limitation", 14.12.98; and "New arrangements for council tax benefit subsidy", 23.12.98

The Liberal Democrats and the Local Government Association have stated their opposition to CTB subsidy limitation.¹²¹

B. Part II of the Bill

Part II of the Bill applies in England and Wales. The powers exercised in England by the Secretary of State for the Environment, Transport and the Regions will in Wales be exercised by the National Assembly.

1. Capping Local Authority Budgets

Clause 23 and **Schedule 1** repeal the current capping legislation, Chapter V of the *Local Government Finance Act 1992*, and insert a new Chapter IVA into that Act. The new provisions follow the old ones quite closely but are designed to give the Secretary of State/National Assembly more flexibility over capping decisions.

The old capping procedure is described in detail in Research Paper 98/66. The proposed new procedure is summarised below. A fuller description is given in the Explanatory Note to the Bill [Bill 5 - EN].

Use of reserve capping powers under Part II of the *Local Government*

Bill: Summary

References to powers of the Secretary of State also include powers of the National Assembly of Wales. References to new provisions are generally given as new section numbers for the 1992 Act.

Reserve capping powers are available where the Secretary of State decides that a council's budget is excessive (section 52B). Any such decision must be based on a set of principles, which must include a comparison with a previous year's budget. Different principles may be applied to different categories of authorities. The Secretary of State has considerable flexibility over the different categories which he may devise. The reserve powers take two main forms: *designation* and *nomination*.

Designation is the first step in limiting a council's budget. If a council is designated for the current financial year (section 52D), the procedure will normally begin in April or May. The council is informed of a target budget (s52E). It may be required to bring its budget down to the target level immediately, or it may be allowed to move towards the target over a number of years, at a rate controlled by the Secretary of State, in which case the cap

¹²¹ LGA Briefing: *The Local Government Bill*, 1.12.98; LGA Liberal Democrat Group Policy Briefing No 14, *The Local Government Bill (Best Value and Capping)*, December 1998

for the current year will be set at a higher level than the target. The council has 21 days to accept the cap or challenge it and propose an alternative.

In the event of a challenge, the Secretary of State must consider any information presented by the council before deciding on a final cap, which may be more generous than the cap he originally set (s52F). The cap is specified in an order which cannot take effect unless approved by resolution of the House of Commons. If, on the other hand, an authority accepts the cap, the Secretary of State simply sends formal notification of the maximum amount to the council (s52G).

If a council which has been capped fails to recalculate its council tax accordingly within a given time limit, it has no access to its council tax income until it does so (s52K).

Nomination (s52D) is the first stage of action which takes effect in the following financial year. This is a completely new power. Two courses of action are possible after the Secretary of State nominates an authority:

- 1) he may designate it, in advance, for the next financial year (s52M). This will normally take place at the time of the local government finance settlement, around the end of November or beginning of December. A target budget will be specified. As with designation for the current financial year, the council may be required to bring its budget down to the target level immediately, or it may be allowed to move towards the target over a number of years. Similar appeal procedures apply.
- 2) he may instead specify a marker, a notional budget, against which future budgets set by the authority can be judged. The authority may challenge this marker.

As stated above, many of the procedures for the use of reserve capping powers under the current Bill are similar to existing procedures under the *Local Government Finance Act 1992*. Equivalent provisions, where these exist, are shown in the following table.

**New Capping Provisions for *Local Government Finance Act 1992*,
contained in Schedule 1 of the *Local Government Bill*:
Equivalent Provisions in Current Version of the 1992 Act**

| New Section Number | Old Section Number |
|---------------------------|---------------------------|
| 52A | 53(1) |
| 52B | 54 |
| 52C | 55 |
| 52D | 54(1) |
| 52E | 56 |
| 52F | 57 |
| 52G | 58 |
| 52H | 59 |

| | |
|-----|---------------|
| 52I | 60 |
| 52J | 61 |
| 52K | 62 |
| 52L | No equivalent |
| 52M | No equivalent |
| 52N | No equivalent |
| 52P | No equivalent |
| 52Q | [57] |
| 52R | [58] |
| 52S | [59] |
| 52T | [60] |
| 52U | [61] |
| 52V | [62] |
| 52W | 53(2) |
| 52X | 54(4) to (7) |
| 52Y | 64 |
| 52Z | 63 |

The following commentary concentrates on the main changes introduced by the new legislation rather than analysing all of new Chapter IVA of the 1992 Act in detail. As in the table above, references to new provisions contained in Schedule 1 of the current Bill are given as new section numbers for the 1992 Act.

Section 52A specifies the authorities which are covered by the reserve capping power. All major local authorities are included, including the proposed Greater London Authority and police and fire authorities. As with the current legislation, town, parish and community councils are not subject to capping. **Section 52X(6)** enables the Secretary of State/National Assembly, by order, to take account of the level of council tax set by local town/parish/community councils when deciding whether to impose a cap on a billing authority (shire districts in England or unitary authorities in the Wales are the councils which would be most likely to be affected by this).

Section 52B provides that the Secretary of State/National Assembly may designate or nominate an authority if in their opinion its budget is excessive. The power to nominate (the first stage of action which takes effect in the following financial year) is new: see **Sections 52L-N**. Any action taken must, as with the old legislation, be based on a set of principles, but s52B is intended to give considerably more flexibility over the principles which may be used. Section 54 of the 1992 Act, as it currently stands, enables the Government to treat different classes of authorities differently, ie counties, shire districts, metropolitan districts, London boroughs, unitaries, etc. But two authorities from the same class must be judged according to exactly the same set of principles, even if their circumstances are very different. In addition, the Government may compare this year's budget with last year's budget when deciding whether to designate an authority, but may not use information relating to earlier years.

The Government's rationale for introducing more flexibility into the capping process, as set out in the White Paper, is reproduced above.¹²² The basic aim would appear to be in line with the Government's philosophy of rewarding good performance and imposing penalties for bad performance. The Explanatory Notes state:

The new reserve powers will allow the Secretary of State to look at an authority's changes in budget requirement over a number of years [...] In addition, the Secretary of State will be able to exempt certain categories of authorities from budgetary controls, for example those with small budgets or those which provide only particular services. He will also be able to take into account factors such as the authorities' performance in delivery of best value, the support of local electorates for authorities' proposed budgets and whether the council has beacon status when deciding if the budget requirement is excessive.¹²³

The proposal to exempt "Beacon authorities" from various central controls is set out in part III of this paper.

The ability to use comparisons with earlier budgets could be used against councils which do not increase their budget dramatically in any given year but which raise their council tax above the Government's target level year after year. No comparison with a budget earlier than 1998/99 may be used. Section 52B appears to remove one option available under the current procedure: under s54(a) of the 1992 Act the Secretary of State may cap an authority if he believes its budget is excessive without reference to the previous year's budget. This is referred to in capping jargon as "absolute excessiveness". Recently a number of authorities designated under this option have lobbied Ministers to discontinue its use. Section 52B(3) and (4) provide that the capping principles used by the Secretary of State/National Assembly must include a comparison with a previous year or years: this appears to remove the "absolute excessiveness" option.

The Explanatory Notes to the Bill state that the reserve capping powers will allow the Secretary of State to require authorities to reduce their budget requirements below those of previous years or below their standard spending assessment (SSA).¹²⁴ In theory, the current legislation also allows caps to be imposed in this way, although this has never actually occurred. Since the SSA is intended to indicate the level of spending necessary to fund a "standard level of service" it seems unlikely that imposing a cap below SSA would be contemplated in normal circumstances.

The Liberal Democrat group on the Local Government Association has expressed concern that the increased flexibility given to the Secretary of State/National Assembly under

¹²² See part II(A)2 of this paper

¹²³ Bill 5 - EN, para 10

¹²⁴ Bill 5 - EN, para 10

Section 52B "seems to go against the Government's stated policy of introducing greater transparency in the local government finance system".¹²⁵

As explained earlier, central government used a practice known as "universal capping" under the current legislation up to and including 1998/99. This is where the Secretary of State specifies, before authorities set their budgets, the capping principles he intends to use in the next financial year.¹²⁶ Although the Labour Government stated that 1998/99 was the final year in which it intended to use universal capping, there is nothing in the current Bill to prevent its reintroduction in the future.

The Government is to introduce for 1999/2000 a system whereby council tax benefit subsidy (a form of government grant to subsidise council tax benefit paid out by local authorities) is partially withdrawn if authorities set their council tax above a guideline set in advance by the Secretary of State.¹²⁷ There is nothing to stop the Government using its reserve council tax capping powers on authorities which have already had grant removed under this system.

Section 52E sets out the procedure which applies if an authority is designated under s52D. The main new feature here is the specification of a *target* budget in addition to a *maximum* budget. The maximum budget may be lower than the target budget: this will enable the Secretary of State/National Assembly to require a local authority to reduce its budget to the target level over a number of years, at a specified rate, rather than in a single year. **Section 52P** contains the procedure for budget reductions in future years if this option is used (see below).

A council which has been designated has under s52E 21 days to accept the cap or challenge it and propose an alternative. This contrasts with the 28 day deadline under the current legislation, in line with the Government's aim of putting caps into effect earlier in the financial year.¹²⁸

Section 52F contains the procedure for considering an appeal against a cap. The cap may be relaxed following an appeal. The procedure under s52F is very similar to the current procedure under s57, but it also enables the Secretary of State/national Assembly to:

- i. Alter the council's target budget if its maximum budget is also altered; or
- ii. Cancel the authority's *designation* in order to *nominate* it instead, in which case the procedures under section s 52M or 52N are followed.

¹²⁵ LGA Liberal Democrat Group Policy Briefing No 14, *The Local Government Bill (Best Value and Capping)*, December 1998

¹²⁶ See part II(A)2 of this paper for a discussion of universal capping

¹²⁷ See part II(A)4 for a discussion of the council tax benefit subsidy limitation scheme

¹²⁸ *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, para 5.10

The second option would, for example, enable the Secretary of State/National Assembly, in the light of an authority's appeal, to cap it in the next rather than the current financial year.

Section 52K provides that if a council which has been capped fails to recalculate its council tax accordingly within 21 days, it has no access to its council tax income until it does so. This follows the current legislation closely, but a longer deadline, 35 days, is allowed for the proposed Greater London Authority. This is presumably in recognition of the GLA's more complicated budget-setting process which involves both the mayor and assembly.

Section 52L contains the procedure which applies when the Secretary of State/National Assembly *nominates* an authority. As explained above, nomination under s52D is a completely new power. It is the first stage of action which takes effect in the following financial year. The procedure under s52L is similar to that which is followed when an authority is designated under s52E, although under s52L no maximum amount for the current financial year is specified. After nominating an authority, the Secretary of State/National Assembly then proceeds under sections 52M or 52N.

Section 52M enables the Secretary of State/National Assembly to designate an authority, in advance, for the next financial year. In other words, a cap may be imposed on next year's budget rather than the current year's. The procedure is similar to the procedure under s52E (designation for the current year), although the timing will be different. The Explanatory Notes state that designation under s52M will normally take place at the time of the local government finance settlement, around the end of November or beginning of December.

A target budget will be specified. As with designation for the current financial year, the council may be required to set its budget at the target level immediately, or it may be allowed to move towards the target over a number of years at a specified rate. Under s52M the deadline for appeal against next-year designation is as specified by the Secretary of State/National Assembly, rather than the fixed period of 21 days allowed under s52E. If designation takes place well before a council sets its budget, there is clearly less urgency in concluding any appeal.

After nominating an authority, the Secretary of State/National Assembly may proceed under **section 52N** rather than s52M. This allows him to specify a marker, a notional budget, against which future budgets set by the authority can be judged. Although there is no direct equivalent in the current legislation, there are similarities with the procedure under old s55/new s52C whereby a notional budget may be specified if, for example, year on year budgets are not directly comparable because of reorganisation. The latter procedure is intended to be entirely objective whereas the s52N procedure involves a subjective judgement as to what constitutes an excessive budget. Hence an authority may challenge this marker.

Section 52E and s52M both allow the Secretary of State/National Assembly to reduce an authority's budget in stages towards a target budget. If this option is used, it will be

necessary to use the procedure in **Section 52P** for whatever number of years are decided on before the target budget is reached. For example, the Secretary of State may decide (a) to use s52E to set a maximum budget for a council in the current financial year, and (b) to set a higher target budget which must be reached in no more than three years' time. Unless the council voluntarily reduces its budget to the target level when it resets its budget in the current year, s52P will be used for the next three years to ensure compliance with the Secretary of State's timetable for meeting the target budget. The basic procedure under s52P is much the same as that under s52M.

As the Explanatory Notes point out, the procedures contained in **s52Q to s52V**, which deal with appeals, re-setting the budget, etc, after s52M and s52P are used, are very similar to those under s52F to s52K (which apply after the use of s52E).

2. Council Tax Benefit Subsidy Limitation

The Government is to introduce a scheme to limit council tax benefit subsidy (a form of government grant to subsidise council tax benefit paid out by local authorities) if authorities set their council tax above a guideline set in advance by the Secretary of State. The scheme is discussed in part II(A)4 of this paper. It will take effect in the financial year 1999/2000 and will be implemented mainly by means of secondary legislation and directions.

Primary legislation is, however, needed to ensure that councils which administer council tax benefit (*billing authorities*, including shire and metropolitan districts, unitary authorities, London boroughs) are not penalised by the spending decisions of *major precepting authorities* (these include the English counties, the police authorities and the proposed Greater London Authority). A precept is an order to raise money. Precepting authorities are authorities which do not send out council tax bills themselves, but instead require the local billing authorities to include the precepts which are issued to them in the bills they send out. Town, parish and community councils also issue precepts: they are known as *local precepting authorities*.

When a precepting authority issues a precept, this increases council tax bills and therefore the amount of council tax benefit which the billing authorities in its area have to pay out. The Government pays CTB subsidy to the billing authority to cover its costs. From 1999/2000, however, where a major precepting authority increases its precept by more than the Government's guideline, part of the council tax benefit subsidy relating to the increase in precept will be withdrawn by the Government. To prevent billing authorities from being penalised by the actions of major precepting authorities, **Clause 24** will in those circumstances require major precepting authorities to make payments to any billing authorities affected to cover the shortfall in CTB subsidy. Clause 24 will not protect billing authorities against the actions of *local* precepting authorities.

Clause 24(6) provides that the Clause will apply "as regards the financial year beginning with 1st April 1999 and subsequent financial years". The Bill is likely to be approved during the current Parliamentary year, in time for the Clause to take effect before the end of the financial year 1999/2000.

III Beacon Councils

The White Paper *Modern Local Government: In Touch with the People* contains a proposal to establish a group of "beacon councils" which would be given additional freedom from central control in return for exemplary performance.

Beacon councils – the very best performing councils – will set the pace of change and encourage the rest to innovate and to modernise. The Government will establish a scheme to identify and select these beacon councils as recognised centres of expertise and excellence to which others should look.

Ministers will take decisions on awarding beacon status, in response to applications from councils. There will be an independent advisory panel, with an appropriate mix of academics, business people, local government figures, practitioners and service users. The panel will advise Ministers both on selection criteria and on individual applications.

Councils will be able to apply for beacon status in relation to particular service areas, or for the council as a whole. It is envisaged that in all but a handful of cases applications will initially relate to particular services. There will therefore be beacon housing councils, beacon education councils, or beacon social service councils. A council which obtains beacon status for a number of its key services will then be well placed to apply for overall beacon status. An overall beacon council will be responsive to its local community, have modern management structures, and a successful best value regime demonstrated by high standards of efficiency and effectiveness.

The criteria for selection will be as objective and transparent as possible. Selection will need to take account of performance in service delivery against national and local performance targets and performance indicators. It will also need to have regard to inspectorate reports, and auditors' statements on financial management. In their applications councils will be expected to demonstrate that they consistently provide efficient and effective services, and that they have a high level of support from local people and the business community.

Beacon status will be awarded for a fixed period – perhaps three or five years – after which a council will need to reapply. A council would lose beacon status if, for example, serious service failure was identified during that period.

A council with beacon status for a particular service will be given wider discretion in the way in which that service is managed and delivered. For example, a council could be given more freedom to make capital investment in its beacon service, subject to the council making a proper analysis of the budgetary implications; controls in secondary legislation on service delivery could be eased for a council's beacon service.

Where a council has overall beacon status, it could be given not only greater discretion in relation to particular services, but additional powers and freedoms giving it greater scope to act for the benefit of its local people and area. This

paper describes three particular initiatives where the Government is proposing to make available such additional powers and freedoms – the new reserve capping powers in Chapter 5, the proposed new powers framework in Chapter 8, and the proposals for a supplementary local business rate in Chapter 10.

It is essential that the scheme of beacon councils commands confidence and respect throughout local government. Before establishing the scheme the Government will consult widely.

The beacon councils proposal is relevant to the *Local Government Bill* because the Bill would give the Government great flexibility in the way it exercised many of its best value and reserve capping powers. This would enable it to apply looser controls to beacon councils in addition to penalising authorities which were perceived to be failing.

Appendix

The Effect of CTB Subsidy Limitation on selected authorities

Council Tax Benefit Subsidy Limitation will affect councils in different ways depending on a number of factors, including their budget position relative to SSA, the proportion of council tax yield from council tax benefit, the profile of their taxbase and their increase in SSA in 1999/00.

Table 1 profiles 14 local authorities in terms of their council tax and budget position for 1999/00.

Table 2 looks at how each authority might be affected by different percentage increases in budget requirement.

A number of assumptions have been made in making these estimates. These are:

- The percentage increase in local precepts is the same as for the authority's own budget requirement
- The change in the taxbase used in calculating the council tax since 1998/99 is the same as that in the figures released in the local government finance settlement
- Any amounts transferred between the General Fund and the Collection Fund in respect of community charge are the same as in 1998/99
- Any amounts included in respect of the billing authority's share of estimated Council Tax Collection Fund deficits or surpluses are the same as in 1998/99

The results obtained by using these assumptions in a model set up by DETR are shown in Table 2.

With a budget requirement increase of 2.0%, none of the authorities shown are affected. For all but two this is because the council tax increase is below 4.5% and the cash increase in budget requirement is below that in SSA. Wandsworth would have a percentage increase in council tax above 4.5%, although that increase would still be below the cash increase in its SSA.. Ryedale would have a cash increase in budget above that in SSA but had a council tax increase of only 1.5%.

If budget requirements were increased by 2.5%, of the authorities shown only Sevenoaks would be affected, and then only very slightly. With a 3.0% increase, Camden would also be affected as its budget increase would be above the increase in SSA. In Camden, the estimated share of Council Tax Benefit in its Council Tax income is 24.0%. This is well above the 16.0% limit placed on the amount of subsidy to be affected by limitation. Had this limit not been introduced, Camden and other authorities in its position would lose much more of their subsidy following the limitation. In Camden's case the reduction in subsidy would be around 66% higher.

With an increase in budget requirement of 5.0%, all but four authorities have some subsidy limitation. Wandsworth is affected at this point even though its budget requirement would be below its SSA. With budget requirement increases of 6.5%, all of the authorities shown have some subsidy limitation.

Table 1

Council Tax and budget position of selected local authorities: England

| | Band D Council Tax 1998/99 | Council Tax as % of Standard Spending | 1998/99 Budget Requirement as % of SSA | % increase in SSA: 1998/99 to 1999/00 | Estimated proportion of council tax yield from council tax benefit |
|----------------------|-------------------------------|--|--|--|---|
| Camden | £766 | 140% | 108% | 2.9% | 24.0% |
| Wandsworth | £208 | 38% | 87% | 4.2% | 20.7% |
| Kingston upon Thames | £608 | 107% | 102% | 4.8% | 9.0% |
| Liverpool | £1,064 | 188% | 112% | 5.1% | 44.7% |
| Birmingham | £771 | 136% | 106% | 4.0% | 31.8% |
| Telford & Wrekin | £638 | 109% | 102% | 6.5% | 19.8% |
| Bournemouth | £632 | 108% | 102% | 3.1% | 13.9% |
| Ryedale | £132 | 165% | 121% | 0.2% | 9.6% |
| Easington | £232 | 291% | 138% | 3.1% | 27.5% |
| Caradon | £119 | 149% | 117% | 3.6% | 12.8% |
| Sevenoaks | £114 | 143% | 123% | 2.6% | 9.0% |
| Derbyshire | £642 | 127% | 107% | 6.0% | 13.5% |
| Buckinghamshire | £547 | 108% | 103% | 4.5% | 6.9% |
| Durham | £634 | 125% | 105% | 6.6% | 21.5% |

Sources: DETR data on disk

SSA Key Players' Pack: 1999/00, DETR

Table 2

Estimated effect of budget requirement increases on local authorities council tax positions

| | Before CTB subsidy limitation | | After CTB subsidy limitation | | After CTB subsidy limitation and without limit on prescribed share | |
|--|-------------------------------|---------------------------|---|--|--|--|
| | Band D Council Tax required | % increase in Council Tax | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required |
| Budget requirement increase of 2.0% | | | | | | |
| Camden | £792 | 3.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Wandsworth | £223 | 7.1% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £586 | -3.7% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £983 | -7.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £733 | -5.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Telford & Wrekin | £555 | -13.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £636 | 0.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Ryedale | £134 | 1.5% | No effect: % increase in tax below 4.5% | | | |
| Easington | £233 | 0.5% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Caradon | £118 | -0.5% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Sevenoaks | £118 | 3.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Derbyshire | £590 | -8.1% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £534 | -2.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Durham | £554 | -12.7% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 2.5% | | | | | | |
| Camden | £807 | 5.4% | No effect: budget increase below SSA | | | |
| Wandsworth | £233 | 12.0% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £595 | -2.2% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £1,004 | -5.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £752 | -2.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Telford & Wrekin | £568 | -10.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £647 | 2.3% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Ryedale | £136 | 2.7% | No effect: % increase in tax below 4.5% | | | |
| Easington | £236 | 1.7% | No effect: % increase in tax below 4.5% | | | |
| Caradon | £119 | 0.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Sevenoaks | £120 | 4.9% | £0 | £0 | £0.0 | £0 |
| Derbyshire | £600 | -6.5% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £542 | -1.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Durham | £566 | -10.7% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 3.0% | | | | | | |
| Camden | £821 | 7.3% | £54.6 | £1 | £90.6 | £1 |
| Wandsworth | £243 | 16.8% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £604 | -0.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £1,025 | -3.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £770 | -0.1% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Telford & Wrekin | £581 | -8.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £658 | 4.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Ryedale | £137 | 3.8% | No effect: % increase in tax below 4.5% | | | |
| Easington | £239 | 2.9% | No effect: % increase in tax below 4.5% | | | |
| Caradon | £121 | 2.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Sevenoaks | £121 | 6.0% | £1.2 | £0 | £1.2 | £0 |
| Derbyshire | £610 | -5.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £550 | 0.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Durham | £578 | -8.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |

Table 2

Estimated effect of budget requirement increases on local authorities council tax positions

| | Before CTB subsidy limitation | | After CTB subsidy limitation | | After CTB subsidy limitation and without limit on prescribed share | |
|--|-----------------------------------|---------------------------------|---|---|--|---|
| | Band D Council Tax required | % increase in Council Tax | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required |
| Budget requirement increase of 3.5% | | | | | | |
| Camden | £836 | 9.2% | £333.1 | £4 | £552.3 | £7 |
| Wandsworth | £254 | 21.7% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £613 | 0.7% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £1,046 | -1.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £789 | 2.3% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Telford & Wrekin | £594 | -6.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £668 | 5.7% | £27.7 | £0 | £27.7 | £0 |
| Ryedale | £139 | 4.9% | £0.1 | £0 | £0.1 | £0 |
| Easington | £241 | 4.0% | No effect: % increase in tax below 4.5% | | | |
| Caradon | £122 | 3.3% | No effect: % increase in tax below 4.5% | | | |
| Sevenoaks | £122 | 7.0% | £4.9 | £0 | £4.9 | £0 |
| Derbyshire | £620 | -3.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £557 | 1.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Durham | £590 | -6.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 4.0% | | | | | | |
| Camden | £851 | 11.1% | £615.7 | £7 | £1,020.8 | £12 |
| Wandsworth | £264 | 26.5% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £622 | 2.2% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £1,068 | 0.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £808 | 4.7% | £12.0 | £0 | £29.3 | £0 |
| Telford & Wrekin | £607 | -4.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £679 | 7.4% | £131.3 | £2 | £131.3 | £2 |
| Ryedale | £140 | 6.0% | £2.1 | £0 | £2.1 | £0 |
| Easington | £244 | 5.2% | £2.0 | £0 | £4.1 | £0 |
| Caradon | £124 | 4.5% | £0.0 | £0 | £0.0 | £0 |
| Sevenoaks | £123 | 8.1% | £10.9 | £0 | £10.9 | £0 |
| Derbyshire | £630 | -1.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £565 | 3.3% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Durham | £603 | -4.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 4.5% | | | | | | |
| Camden | £865 | 13.1% | £850.8 | £10 | £1,410.5 | £17 |
| Wandsworth | £274 | 31.4% | No effect: budget increase below SSA | | | |
| Kingston upon Thames | £630 | 3.6% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Liverpool | £1,089 | 2.4% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Birmingham | £827 | 7.2% | £809.3 | £3 | £1,981.1 | £7 |
| Telford & Wrekin | £620 | -2.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £690 | 9.1% | £276.1 | £5 | £276.1 | £5 |
| Ryedale | £141 | 7.2% | £5.4 | £0 | £5.4 | £0 |
| Easington | £247 | 6.4% | £10.7 | £0 | £21.2 | £1 |
| Caradon | £125 | 5.8% | £2.4 | £0 | £2.4 | £0 |
| Sevenoaks | £124 | 9.2% | £19.3 | £0 | £19.3 | £0 |
| Derbyshire | £640 | -0.2% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £573 | 4.7% | £2.1 | £0 | £2.1 | £0 |
| Durham | £615 | -3.0% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |

Table 2

Estimated effect of budget requirement increases on local authorities council tax positions

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|--|-----------------------------------|---------------------------------|---|---|--|---|
| | Band D Council Tax required | % increase in Council Tax | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required |
| Budget requirement increase of 5.0% | | | | | | |
| Camden | £880 | 15.0% | £1,085.8 | £13 | £1,800.1 | £21 |
| Wandsworth | £284 | 36.2% | £21.2 | £0 | £29.1 | £0 |
| Kingston upon Thames | £639 | 5.1% | £5.3 | £0 | £5.3 | £0 |
| Liverpool | £1,110 | 4.4% | No effect: % increase in tax below 4.5% | | | |
| Birmingham | £846 | 9.6% | £2,062.5 | £8 | £5,048.8 | £18 |
| Telford & Wrekin | £632 | -0.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £701 | 10.9% | £377.1 | £6 | £377.1 | £6 |
| Ryedale | £143 | 8.3% | £10.2 | £1 | £10.2 | £1 |
| Easington | £250 | 7.6% | £30.2 | £1 | £60.1 | £2 |
| Caradon | £127 | 7.1% | £9.3 | £0 | £9.3 | £0 |
| Sevenoaks | £126 | 10.2% | £25.0 | £1 | £25.0 | £1 |
| Derbyshire | £650 | 1.3% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £581 | 6.1% | £65.2 | £0 | £65.2 | £0 |
| Durham | £627 | -1.1% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 5.5% | | | | | | |
| Camden | £895 | 16.9% | £1,320.8 | £16 | £2,189.7 | £26 |
| Wandsworth | £294 | 41.1% | £263.3 | £2 | £360.8 | £3 |
| Kingston upon Thames | £648 | 6.6% | £46.2 | £1 | £46.2 | £1 |
| Liverpool | £1,131 | 6.4% | £233.0 | £2 | £989.0 | £8 |
| Birmingham | £864 | 12.0% | £3,045.9 | £11 | £7,456.1 | £27 |
| Telford & Wrekin | £645 | 1.2% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £711 | 12.6% | £478.1 | £8 | £478.1 | £8 |
| Ryedale | £144 | 9.4% | £13.2 | £1 | £13.2 | £1 |
| Easington | £252 | 8.8% | £47.7 | £2 | £95.0 | £4 |
| Caradon | £128 | 8.3% | £18.5 | £1 | £18.5 | £1 |
| Sevenoaks | £127 | 11.3% | £30.7 | £1 | £30.7 | £1 |
| Derbyshire | £661 | 2.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Buckinghamshire | £588 | 7.5% | £214.0 | £1 | £214.0 | £1 |
| Durham | £639 | 0.9% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Budget requirement increase of 6.0% | | | | | | |
| Camden | £910 | 18.8% | £1,555.8 | £19 | £2,579.3 | £31 |
| Wandsworth | £304 | 45.9% | £469.9 | £4 | £643.9 | £6 |
| Kingston upon Thames | £657 | 8.0% | £126.5 | £2 | £126.5 | £2 |
| Liverpool | £1,153 | 8.4% | £962.1 | £8 | £4,082.9 | £33 |
| Birmingham | £883 | 14.5% | £4,029.3 | £15 | £9,863.4 | £36 |
| Telford & Wrekin | £658 | 3.3% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |
| Bournemouth | £722 | 14.3% | £579.2 | £10 | £579.2 | £10 |
| Ryedale | £146 | 10.5% | £16.2 | £1 | £16.2 | £1 |
| Easington | £255 | 10.0% | £60.9 | £2 | £121.2 | £5 |
| Caradon | £130 | 9.6% | £24.6 | £1 | £24.6 | £1 |
| Sevenoaks | £128 | 12.4% | £36.4 | £1 | £36.4 | £1 |
| Derbyshire | £671 | 4.5% | No effect: % increase in tax below 4.5% | | | |
| Buckinghamshire | £596 | 9.0% | £358.7 | £2 | £358.7 | £2 |
| Durham | £652 | 2.8% | No effect: % increase in tax below 4.5% and budget increase below SSA | | | |

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Estimated effect of budget requirement increases on local authorities council tax positions

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|--|-----------------------------------|---------------------------------|---|---|--|---|
| | Band D Council Tax required | % increase in Council Tax | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required | Loss due to subsidy limitation (£ '000s) | Additional Band D Council Tax required |
| Budget requirement increase of 6.5% | | | | | | |
| Camden | £924 | 20.7% | £1,790.8 | £21 | £2,968.9 | £35 |
| Wandsworth | £314 | 50.8% | £676.5 | £6 | £927.1 | £9 |
| Kingston upon Thames | £666 | 9.5% | £179.1 | £3 | £179.1 | £3 |
| Liverpool | £1,174 | 10.4% | £1,458.1 | £12 | £6,187.8 | £51 |
| Birmingham | £902 | 16.9% | £5,012.7 | £18 | £12,270.8 | £45 |
| Telford & Wrekin | £671 | 5.3% | £3.2 | £0 | £4.2 | £0 |
| Bournemouth | £733 | 16.0% | £680.2 | £12 | £680.2 | £12 |
| Ryedale | £147 | 11.7% | £19.2 | £1 | £19.2 | £1 |
| Easington | £258 | 11.2% | £74.1 | £3 | £147.5 | £6 |
| Caradon | £131 | 10.8% | £30.7 | £1 | £30.7 | £1 |
| Sevenoaks | £129 | 13.4% | £42.1 | £1 | £42.1 | £1 |
| Derbyshire | £681 | 6.0% | £181.4 | £1 | £181.4 | £1 |
| Buckinghamshire | £604 | 10.4% | £472.7 | £2 | £472.7 | £2 |
| Durham | £664 | 4.8% | £5.6 | £0 | £8.0 | £0 |
| Budget requirement increase of 7.0% | | | | | | |
| Camden | £939 | 22.7% | £2,025.8 | £24 | £3,358.5 | £40 |
| Wandsworth | £324 | 55.6% | £883.1 | £8 | £1,210.3 | £11 |
| Kingston upon Thames | £675 | 10.9% | £231.8 | £4 | £231.8 | £4 |
| Liverpool | £1,195 | 12.4% | £1,954.1 | £16 | £8,292.7 | £68 |
| Birmingham | £921 | 19.4% | £5,996.1 | £22 | £14,678.1 | £53 |
| Telford & Wrekin | £684 | 7.3% | £102.3 | £2 | £132.6 | £3 |
| Bournemouth | £744 | 17.7% | £781.3 | £13 | £781.3 | £13 |
| Ryedale | £149 | 12.8% | £22.3 | £1 | £22.3 | £1 |
| Easington | £261 | 12.4% | £87.2 | £3 | £173.7 | £7 |
| Caradon | £133 | 12.1% | £36.8 | £1 | £36.8 | £1 |
| Sevenoaks | £130 | 14.5% | £47.8 | £1 | £47.8 | £1 |
| Derbyshire | £691 | 7.6% | £640.1 | £3 | £640.1 | £3 |
| Buckinghamshire | £612 | 11.8% | £586.8 | £3 | £586.8 | £3 |
| Durham | £676 | 6.7% | £236.8 | £2 | £340.5 | £2 |
| Budget requirement increase of 7.5% | | | | | | |
| Camden | £954 | 24.6% | £2,260.8 | £27 | £3,748.2 | £45 |
| Wandsworth | £335 | 60.5% | £1,089.7 | £10 | £1,493.4 | £14 |
| Kingston upon Thames | £684 | 12.4% | £284.4 | £5 | £284.4 | £5 |
| Liverpool | £1,216 | 14.4% | £2,450.2 | £20 | £10,397.6 | £85 |
| Birmingham | £939 | 21.8% | £6,979.5 | £25 | £17,085.4 | £62 |
| Telford & Wrekin | £697 | 9.4% | £246.9 | £6 | £320.0 | £7 |
| Bournemouth | £754 | 19.4% | £882.3 | £15 | £882.3 | £15 |
| Ryedale | £150 | 13.9% | £25.3 | £1 | £25.3 | £1 |
| Easington | £263 | 13.6% | £100.4 | £4 | £200.0 | £8 |
| Caradon | £134 | 13.3% | £42.9 | £2 | £42.9 | £2 |
| Sevenoaks | £132 | 15.6% | £53.5 | £1 | £53.5 | £1 |
| Derbyshire | £701 | 9.2% | £1,100.4 | £5 | £1,100.4 | £5 |
| Buckinghamshire | £619 | 13.2% | £700.9 | £4 | £700.9 | £4 |
| Durham | £689 | 8.6% | £713.1 | £5 | £1,025.4 | £7 |

Sources: DETR data on disk
SSA Key Players' Pack: 1999/00, DETR