



Government response to withdrawn amendments at Lords Committee



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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000
Website: www.communities.gov.uk

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Tel: 030 0123 1124
Fax: 030 0123 1125

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Introduction

Government response to withdrawn amendments at Lords Committee

A number of Peers helpfully withdrew their amendments so that the Localism Bill could complete Lords Committee on 20th July. We have since written to Peers individually to respond to the issues raised by their withdrawn amendments.

Attached are the Government responses to all these withdrawn amendments. For convenience these have been sorted into the groups as they appeared on the order of consideration.

The amendments referred to are all on the Parliament's Localism Bill website at: <http://services.parliament.uk/bills/2010-11/localism.html>

Subterranean development - 149, 168, 169, 170CA, 170CB, 170CE

Amendments 149, 169 and 170CE

The Government has reflected on these subterranean development amendments, and believes that appropriate safeguards are available to address many of the issues that these raise. Local planning authorities already have the power, through Article 4 directions, to ensure that all proposals for subterranean development are brought under their control.

In the assessment of planning applications for subterranean development, local planning authorities can have regard to cumulative impacts, as well as the precedent that can be set in approving such development. Local planning authorities also have the power to request that a construction method statement be submitted with the planning application, which can contain measures to safeguard neighbouring properties. Following on from this, local planning authorities can attach conditions to planning permissions, to ensure that the details submitted with the application are complied with and that the work is supervised by a structural engineer. The work would also be required to be carried out in accordance with the Construction (Design and Management) Regulations 2007 and any other relevant health and safety legislation. On the issue of insurance or bond arrangements in place, we believe this is a private matter which would be inappropriate to control through the planning system.

In the case of neighbourhood planning, our existing provisions would allow a wide range of conditions to be attached to neighbourhood development orders – this could include conditions requiring further consultation requirements for subterranean development.

With regard to the proposal to extend the provisions of the Party Wall etc. Act 1996 to all subterranean development, this Act would already apply where work is being carried out to a party wall, including where that wall would be extended downwards to form a basement, or, in certain circumstances, where excavation is taking place within six metres of a neighbouring owner's building or structure. The Act requires consultation between the parties and provides for the resolution of disputes through the drawing up of a Party Wall Award. The Award may include the detail of the work being carried out, any restrictions on the work and issues such as compensation. The Act therefore already applies in many situations where subterranean development is proposed and most aspects, such as the need for consultation with the adjoining owner, are also addressed through the planning application process. Where the Act does not apply, a building owner retains existing common law remedies in respect of any damage caused.

Amendment 168

As stated previously, local planning authorities already have the power, through Article 4 directions, to ensure that all proposals for subterranean development are brought under their control. As part of the information local planning authorities can request to accompany a planning application, they can request an applicant to submit a study to assess the impact of a proposed subterranean development. This study may include an assessment of matters such as the impact of the development on neighbouring properties and the local water table. The planning application process also allows for appropriate consultation with neighbouring properties.

We believe that a requirement for subterranean developments to be approved by the Secretary of State would be against the spirit of localism and would set an unwelcome precedent for centralising decision making on matters best dealt with at the local level.

Finally, this amendment also suggested requiring that insurance or bond arrangements are in place. We believe this is a private matter which would be inappropriate to seek to control through the planning system.

Amendment 170CA and 170CB

Local planning authorities already have powers to use locally prepared planning policies to set the standards by which planning applications for subterranean development will be assessed. These policies can operate in a similar manner to the “Code of Practice” proposed by these amendments, and can include technical standards, as well as requirements around constructions hours, noise limits, etc.

The planning system does not currently make provision for the formal payment of compensation by developers to those who may suffer from disturbance and inconvenience as a result of development. We believe the introduction of such a provision would set an unwelcome precedent for this to be adopted more generally in relation to all development types. This would have wider ramifications for the development industry, by increasing development costs, which would be particularly unwelcome as we seek to secure economic growth. We also have concerns about local authorities putting a monetary value on disturbance and inconvenience caused by neighbours as this could prove inflammatory - these things can be very subjective and are often experienced by different people in different ways.

With regard to the proposals relating to the Secretary of State issuing guidance, in the spirit of localism, we believe it is best to leave it to local authorities to issue guidance, as they can prepare such guidance in response to their particular local circumstances.

Locally Important Green spaces - 153AKB

The Coalition's programme for government includes an intention to create a new designation to protect green areas of particular importance to local communities. June's Natural Environment White Paper explained our general intentions and the National Planning Policy Framework we published for consultation last month sets out our proposals for the new designation. Local communities will be able to use the new Local Green Space designation to earmark for special protection a green area that has a particular local significance because of its beauty, historic importance, recreational value, tranquility or richness of its wildlife.

The designation is deliberately localist in design, and light on bureaucracy. We want to avoid the rigid rules that apply to statutory designations and have not given national bodies such as Natural England any specific role in identifying these green areas. We believe local people know best the local green spaces that are special to them and we are therefore proposing that local communities should be able to use their local and neighbourhood plans to designate these areas. We believe the right place for local people to plan the green spaces they regard as special is as they plan for the development needed in their communities.

Development on Green Belt land - 170

A test of sufficient infrastructure is not related to Green Belt policy – which is about preserving openness, preventing the unrestricted sprawl of built up areas and the merger of towns. Developing land that has sufficient infrastructure could still harm the openness of Green Belt land and put at risk the key principles of the policy. The law already requires determinations under the planning Acts to be made in accordance with the development plan “unless material considerations indicate otherwise”. Infrastructure is one of the material considerations routinely taken into account by decision-makers in planning cases.

In addition, given that current national policy has delivered a strong level of protection, we do not think it would be appropriate to make changes to Green Belt policy through legislative means. We published on 25 July, for public consultation, the National Planning Policy Framework which includes Green Belt policy. If changes are required to Green Belt policy, they should be carefully considered as part of that consultation and, if appropriate, taken forward through the Framework.

Orders for possession: cases in which ground 8 is not available – 178A

Amendment 178A seeks to remove housing associations' ability to seek possession for rent arrears of two months or more on mandatory grounds and to remove private landlords' ability to use the mandatory ground where all or part of the reason for rent arrears stems from delays in making housing benefit payments.

Whilst the Government agrees that housing associations should only evict tenants for rent arrears as a last resort we are not persuaded of the case for taking away their ability to seek possession on mandatory grounds for significant rent arrears. Our recently published draft Direction to the social housing regulator on the content of the tenure standard includes a requirement that social landlords set out how they will support tenants to sustain their tenancies and prevent unnecessary evictions. In addition, an existing 'Pre-Action Protocol for rent arrears' sets out various measures social landlords should take before initiating possession proceedings.

In the private rented sector the current balance between the rights of landlords and tenants is broadly right. We would not want to restrict landlords' ability to obtain possession for rent arrears by limiting the circumstances in which they could use a mandatory ground.

Housing standards and accreditation schemes for local authority tenants and for private sector lettings and management agents– 178AA, 178EB and 182G

Amendment 178AA sought to enable a local authority to issue an enforcement notice against itself requiring it to bring up to standard a property it owns or manages. Of course it is important that tenants' homes are safe and in good condition regardless of who owns them, but we do not feel this amendment is necessary or, indeed, workable.

There are already mechanisms in place to ensure local authority landlords keep their stock in good condition, and a clear route of redress for tenants who feel that their landlord is not fulfilling its responsibilities. Where a landlord fails to comply with the standard and this causes serious detriment to its tenants, the Social Housing Regulator will be able to take enforcement action against the landlord.

The number of local authority owned properties meeting the Decent Homes standard continues to rise year on year. This is testament to the fact local authorities are properly concerned with the condition of their properties. Indeed, we have recently announced £1.6bn of further funding to enable more council homes to be brought up to the standard required.

Amendment 182G and 178EB would introduce regulation or accreditation of letting and managing agents. Around two thirds of landlords let and manage their property through an agent. It is important that they offer a good service and, in particular,

handle their clients' money appropriately. We are aware that there exists poor practice within the letting and managing agent sector but there are already remedies. Between a third and a half of all agents belong to voluntary schemes which set standards and offer redress, including client money protection, where things go wrong. We are working closely with those schemes to ensure that consumers are fully aware of the risks they face if they use an unregulated agent.

In view of the existence of effective voluntary regulatory schemes, we do not believe that there is a strong case for the introduction of statutory regulation. Statutory regulation would introduce significant burdens to the industry and run the risk of losses to landlords if their agents were unable to continue operating within the regulatory regime. It would, therefore, be wrong for us to support the introduction of enabling powers where we have no concrete plans for their use, however, this matter is being kept closely under review, to see if action does need to be taken

Housing revenue account – 178C, 178D, 178DA, Clause 149 stand part

Proceeds of sale of social housing (178C and Clause 149 Stand Part)

Clause 149 (previously 146) provides a power for central government to control the amount of overall borrowing which is held by local authorities in relation to their Housing Revenue Account. This is integral to protecting the Government's central fiscal priority to reduce the deficit. Self-financing will give local authorities direct control over a large income stream which, without this control, could be borrowed against which would lead to a huge increase in public sector debt. The existing prudential code asks local authorities to assure themselves that they can afford any particular borrowing they are considering entering into, it does not ask them to consider whether the additional borrowing is affordable from a national perspective and indeed individual authorities would not be in a position to make such a decision.

The amendments proposed at Committee stage would have left the decision as to what constitutes 'affordable borrowing' to individual local authorities to determine, with central government only having the ability to issue guidance on this issue. This would provide insufficient protection for what is such a key government objective.

Definition of indebtedness (178D)

The Government understands that amendment 178D was prompted by two concerns: firstly to end the giving over to central Government or 'pooling' of 75 per cent of receipts from the sale of Right-to-Buy houses and secondly to address concerns regarding the 75 per cent of receipts surrendered from properties 'similar' to Right to Buy properties.

Firstly, we recognise councils' disappointment that we have not been able to end this policy of pooling but it is a necessary measure agreed through the Spending Review to help deal with the country's huge fiscal deficit. It is important to note that in light of this decision the Government has ensured that the viability of the self-financing settlement is not affected by compensating local authorities for the loss of rental income from projected future sales. The level of debt that authorities will take reduced by £862m as a consequence.

Secondly, on the issue of lack of clarity on definition, the department will consult this summer on amending the regulations governing the use of receipts arising from the disposal of council housing assets. We will propose in this consultation that the regulations are amended to make clear that the requirement to surrender 75 per cent to central Government shall apply only to receipts arising from Right to Buy sales or sales that are Right to Buy in all but name (i.e. sales to existing council tenants). Sales at market value to other purchasers, for example if the properties were vacant, could be retained provided they are spent on affordable housing, regeneration projects or paying off housing debt.

Social housing rents- 178DA

This amendment would allow either local authority or Housing Association landlords complete freedom to charge rents above the target rent for particular properties in order to fund the cost of additional facilities.

Both sectors are able to exercise some flexibility over rent setting at present but are subject to important constraints. In the case of local authority landlords there is the 'limit rent', which is the maximum which the Department of Work and Pensions is willing to pay in Housing Benefit. This cap is vital to control the benefit bill. For Housing Associations a direction on rent is set each year by the Regulator in order to achieve a degree of consistency in rent levels across the sector and to protect the Housing Benefit Bill.

If we were to give housing associations free reign to increase their rents to deliver improvements this might well benefit the affected tenants, but would at the same time result in uncontrolled increases in the Housing Benefit Bill. Such increases are not affordable and there would be no assurance that the taxpayer was obtaining value for money from the additional public expenditure.

Mobility

Standards facilitating exchange of tenancies- Clause 154 stand part

Clause 154 (now Clause 163) builds on the existing regulatory framework with the aim of ensuring that all social landlords provide their tenants with access to good web-based mutual exchange services. By regulating in this way, we give confidence to the current providers of mutual exchange support that there will continue to be a growing market for their services – and encourage the development of a national system that will allow tenants to see all possible matches.

Improving the mutual exchange support services provided to tenants will increase their chances of arranging a move when they need one. Tenants who need to move for work, or to care for a relative, or to find a more suitably-sized home, will be more likely to find another tenant willing to swap.

We recognise concerns about increased regulation of the sector, but using regulation in this way will in practice impose very few burdens on landlords, while the benefits for tenants will be important. We have set out more detail of our proposed approach, including the terms of a Direction on a mutual exchange standard, in the consultation paper we published on 7 July.

Homes and Communities Agency – Annual report – 182F

The information that the amendments would require to be included within the annual report is either reported on already or is available to members of the public should they request it. Information on the total number of homes delivered each year is provided in Homes and Communities Agency official statistics, published every six months. The Homes and Communities Agency also collects information on the number of habitable rooms per property and reports this to the department. It does not seem appropriate to prescribe in statute the contents of a body's annual report, particularly when the information is either already being collected and reported on or can be made available through existing channels.

Regulation – 178DC, 178DD, 178DE, 178DF, 178DG, 178E, 178F, 178FA, 178G

Social Housing Regulation

There were a number of amendments withdrawn on the regulation of social housing. Amendments 178 DC, DD, DE, DF and DG sought to ensure the continued independence of the regulatory function once it transfers to the Homes and Communities Agency, The government is committed to ensuring the continued independence of the regulatory function once it transfers to the Homes and Communities Agency. The effect of these amendments would be to diminish, rather than enhance, regulatory independence. Rather than vesting the regulation function in an independent committee, the statutory powers would be given to a single member of Homes and Communities Agency staff. This person could presumably be dismissed at any time by the Homes and Communities Agency on normal employment grounds. It would prove difficult for a member of staff – rather than a separately-appointed committee – to take decisions that were demonstrably independent from the Homes and Communities Agencies other functions.

On amendment 178E, “unfit, unable or unsuitable” are fairly standard grounds – a nearly identical provision exists for membership of the boards of the existing Regulator and for the Homes and Communities Agency. A member may be able and fit to carry out his or her functions without being suitable to exercise them.

178EA seeks to require housing associations to obtain consent from the Regulator before transferring the trusteeship of an almshouse to a new trustee. Although we sympathise with the intention, we clearly need to be cautious about extending the scope of state regulation in relation to charitable bodies. Registered providers are already subject to a regulatory requirement to consult tenants on proposed changes to management arrangements, and the Charity Commission's consent is required for changes to charities' objects.

Amendment 178F seeks to ease restrictions on entirely proper payments that a housing association may wish to make to its tenant members. Clause 155 of the Bill already introduces new flexibility for housing associations to make payments to tenant members in order to help them move into home ownership. This amendment goes much further. The requirement to be "*properly making payments in pursuance of its constitution or objects*" represents almost no restriction on a housing association's discretion to make payments. However the Government will consider whether greater flexibility can be delivered in a way that provides sufficient protection for public investment.

Regarding amendment 178FA, a transitional provision is already in place that allows non-stock holding group parents that were previously registered with the Housing Corporation to remain on the Regulator's register. The Government is not convinced that the Regulator should be able to register new bodies that do not meet the tests for eligibility in section 112 of the Housing and Regeneration Act 2008.

Amendment 178G sought to (a) prevent the Regulator from appointing more than four of a non-profit registered provider's officers (other than where the provider has fewer officers than is required by its constitution); and (b) make it possible for the Regulator to appoint a majority of a non-profit registered provider's officers. Section 269 of the Housing and Regeneration Act 2008 provides that the Regulator may not normally appoint more than a minority of the officers of a registered provider. Removing this restriction and replacing it with a prohibition on the Regulator appointing more than four officers would not strengthen housing association independence – in fact, it could well have the opposite effect in certain cases. It is entirely possible that a housing association may have seven or fewer officers – where this is the case, the amendment would effectively give the Regulator the power to appoint a majority of the association's officers.

Private rented sector

Tenancy relations services – 182J

Amendment 182J sought to require every local housing to put in place a “tenancy relations service” run by one or more officer. We agree that both landlords and tenants in the private rented sector should have access to advice and support. But, such services already exist - advice is provided by a range of independent organizations such as landlord associations, tenant groups and housing charities, for example the Citizens’ Advice Bureau, Crisis and Shelter. In addition, local authorities play an active part in supporting those involved in the private rented sector through their extensive statutory powers to deal with poor housing condition, anti-social behaviour and poor management by landlords.

These powers are in addition to a range of activities that local authority ‘Housing Options’ services can provide that are designed to support tenants in the private rented sector. These include assistance to prevent or delay eviction, advice about getting a landlord to do necessary repairs or even budgeting advice to help a tenant to pay their rent, perhaps coupled with negotiating with a landlord to help a person stay in their home. There is no need to legislate to put in place what is already there or to tell local authorities how they should carry out activities and duties that they already perform.

Repairing obligations on landlords – 182KC, 182KD, 182KE, 182KF, 182KG, 182KJ, 182KL

These amendments would change repairing obligations on landlords under the Landlord and Tenant Act 1985 (“the 1985 Act”). Amendments 182KC to 182KJ seek to solve problems that do not in fact exist. Where they would have an effect, their main impact would be to increase burdens on landlords and small businesses. The government’s views on this have been clearly stated in the past.

It is important to maintain a sensible balance between the rights and responsibilities of landlords and tenants and we think that the current legislative framework delivers that balance. Where there is no evidence to the contrary, we are not prepared to increase burdens on landlord with the attendant risks for growth in the sector.

Amendment 182KL would extend the court’s discretion to postpone awarding possession of dwellings in cases where this is currently circumscribed. It appears that the intention is to avoid a situation where the court has to refuse to make a possession order altogether because the time-limits in section 89 of the Housing Act 1980 are too restrictive for the order to be proportionate, as required by the European Convention on Human Rights. However, the Supreme Court in the recent cases of *Powell, Hall and Frisby* refused to make a declaration that section 89 was incompatible with the European Convention on Human Rights.

If there are serious concerns that the timescales prescribed in section 89 could be disproportionate, in exceptional cases the court can deal with this by adjourning the case before making the order. This was accepted as a solution to the problem by Lord Hope in his judgment in the *Powell* case, with which the other members of the

Supreme Court agreed and, in our view, that represents a better solution than the wider extension of the court's discretion to postpone possession. There are a number of circumstances where quite properly the landlord should be able to obtain possession of their property without the court having the option to postpone or suspend possession order indefinitely. In view of this, this amendment is neither necessary or desirable.

Housing Ombudsman – 179, 180, 181, 181ZZA, 181ZA

Housing Ombudsman – 179, 180, 181

Amendments 179, 180 and 181 would make the proposed requirement for complaints to the Housing Ombudsman to be referred by a local councillor, MP or tenant panel optional. The Government's view is that a "dual track" approach as proposed in the amendments tabled would fail to deliver a sufficiently localist approach. Our intention is to promote the resolution of complaints at the most local level as far as possible, and to encourage a system where – ideally – the Ombudsman is only brought in where local resolution does not prove possible.

The Housing Ombudsman provides a good service, and this is not about trying to exclude the Ombudsman from the system. But the caseload for the Ombudsman has been increasing (up 72% between 2007/08 and 2009/10). It is, unfortunately, our sense that many councillors and MPs do not take the time to engage and get involved properly with housing cases – instead preferring to default to the Ombudsmen. We want to ensure that local representatives take proper responsibility for understanding and engaging in local housing issues. And our measures are also designed to promote a greater role for tenant panels in helping to resolve local complaints. Overall, our aim is to make it clear that involving the Ombudsman is a last resort, not a first port of call.

Level of compensation - 181ZZA

Amendment 181ZZA seeks to give greater clarity regarding the Housing Ombudsman's power to order a member landlord to pay compensation to a complainant. We do not think it necessary to include this requirement on the face of the Bill. In practice, the Ombudsman already provides a breakdown of any compensation he has decided to award, and this can be done flexibly according to the circumstances of each case.

Power to enforce decisions through the courts - 181ZA

Amendment 181ZA seeks to remove the proposed power for the Secretary of State to enable the Ombudsman to seek the enforcement of his decisions through the courts., We want to ensure that we continue to promise tenants an effective right of redress. The proposed power to enable the Housing Ombudsman to enforce decisions through the courts – although hopefully never needed – will give tenants confidence that effective redress will continue to be available.

The Government would only use the power if levels of compliance with the Ombudsman's determinations declined significantly.

Exclusion of certain rural dwellings from the preserved right to buy – 182A

Where a secure tenant transfers from their local authority landlord to a registered provider as part of a stock transfer, they keep their entitlement to Right to Buy - this is known as Preserved Right to Buy. We do not think it would be right that tenants who have a longstanding Right to Buy should have this taken away simply because they live in rural areas and their homes have been transferred to a new landlord. There is already statutory provision in place to ensure that new tenants of these properties do not get the right to purchase their homes, so that the properties remain available to those in need of social housing.

Tenancy deposit protection and Houses in multiple occupation – 182B, 182C, 182D

Amendments were tabled concerning Tenancy Deposit Protection (182B, 182C and 182D). These amendments were largely covered by the government amendment (182KA) on the same subject which was accepted. The only substantive difference between the two sets of amendments is in the proposals included in 182B to 182D to clarify the position where the landlord of a property changes during an existing tenancy or where a replacement tenancy is issued.

Where a landlord takes over an existing tenancy, these amendments propose that all the responsibility – and the cost – is placed onto the incoming landlord, regardless of the facts and regardless of who is responsible for them. The Government does not support this approach. There is no evidence that the scenario where an existing tenancy is renewed represents a widespread problem. We take the view that both situations that the legislation seeks to address could easily be resolved by landlords and tenants, properly advised by their lawyers or agents, acting sensibly alongside the scheme administrators.

Community land trusts and leasehold enfranchisement - 182E

Amendment 182E raised the subject of Enfranchisement rights. They are an established and significant right and removing them must not be undertaken lightly. The Bill enables relevant bodies taking forward Community Right to Build powers to remove the enfranchisement rights but only where the development proposals come from the community, is for the community and has strong community backing through a referendum.

Community land trusts in contrast are not required to be made up of members of the community and there is no requirement for a community referendum. This means a Community land trust development need not be proposed by the community or supported by the community or be subject to a community referendum. Allowing Community land trusts to remove these significant enfranchisement rights for their residents cannot be justified if they have not satisfied all the conditions as other relevant bodies would have to do under the Community Right to Build.

However, the design of the Community Right to Build will allow the majority of Community land trusts to apply for a Community Right to Build Order if they chose to do so. As such, they would be able to benefit from the disapplication of enfranchisement rights under a Community Right to Build Order.

Statutory overcrowding- reform of overcrowding standard – 182H

Amendment 182H would redefine the existing statutory overcrowding standards as set out in the Housing Act 1985. Whilst overcrowding is a matter of serious concern, we do not believe that changing the statutory definition will in itself make any difference to overcrowded households. Overcrowded households already have, and will continue to have, priority for social housing. Simply having a new way to measure overcrowding will not help anyone whereas other reforms set out in the Bill will better support social landlords to reduce overcrowding.

For example, more family sized homes can be freed up by removing transferring tenants from the allocation rules or by allowing local authorities to make greater use of the private sector to discharge their main homelessness duty. New flexible tenancies will help ensure that tenants move into the right size property at the time they need it. More mobility options will make it easier for households to move as their circumstances change. These tools will enable landlords to help overcrowded households without needed to change a definition that is widely out of use anyway.

Requirements to maintain property to appropriate standard - 182K

The amendment would require local authorities to take action against owners of neglected properties to bring them up to the average standard of repair for the area when petitioned by the local community.

Local authorities already have extensive powers to take action where a property is dangerous, or is having an adverse impact on the amenity of the neighbourhood. Through the Housing Act 2004 local authorities are able to tackle poor conditions across all residential properties. If a property is found to contain serious hazards, the local authority can instruct the owner of the property to undertake any works necessary to ensure the property is safe. Inspections and any subsequent enforcement to address the disrepair can be triggered through complaints to the local authority.

Further powers available to local authorities to tackle disrepair and poor maintenance include those within the Town & Country Planning Act 1990. Where properties have an adverse impact on the amenity of the area, local authorities can require that properties are tidied up, re-painted or where necessary re-built.

London - Establishing a Strategic Board – 182L

The amendment would require the GLA must establish a London Housing and Regeneration Board. The board would consist of not less than six members appointed by the authority one of whom must be appointed the chair.

Setting a board in statute would give London minimal flexibility in determining its own arrangements for governing housing and regeneration activities. We want to keep prescription by central government to a minimum, and ensure that the Greater London Authority are free to respond to changing times and circumstances if necessary without having to resort to changing primary legislation to do so.

The Mayor, London Assembly and London Councils are already deciding how they want to run things, without any input from Government and are able to set up a board structure such as the amendment suggests - should they wish to do so. London's elected leaders are showing they are capable of co-operative working and we should encourage this approach.

London – Tax Increment Financing – 182LAA

The government has committed to introducing Tax Increment Financing. Indeed, the consultation issued by the department on 18th July "Local Government Resource Review: Proposals for Business Rates Retention" set out proposals for how Tax Increment Financing may be introduced. Following that consultation the Government will be producing a Local Government Finance Bill to allow for the local retention of rates with a view to its introduction from 2013/14. This legislation will also deliver Tax Increment Financing.

We understand the wish to implement proposals as quickly as possible. In that light you may wish to note that if the Tax Increment Financing proposals implemented following the consultation require a bid process that would not necessarily require the legislation to be in place or to wait until 2013/14.

The bid process for Enterprise Zones, which will be able to undertake Tax Increment Finance style borrowing, with certainty that from 2013/14 rates growth will be retained within the Enterprise Zone, has taken place prior to the introduction of the Local Government Finance Bill.

Mayoral Designations – 182M, 182N, 182Q, 182R

Amendments 182M, 182N, 182Q, 182R, addressed the degree to which the Mayor would have to consider affected boroughs' comments when designating a Mayoral development area as well as bestowing planning powers upon a Mayoral development corporation, and borough representation on Mayoral development corporation sub-committees, committees and boards.

The Mayor must consult Boroughs whose area is affected by the designation of a Mayoral development area when that designation is proposed where the Mayor proposes to bestow planning functions upon a Mayoral development corporation. Should a borough feel that their representations have not been properly considered they have the option of escalating their concerns to the London Assembly. The Mayor must respond publicly to comments by the Assembly if he decides not to accept them.

Whilst it is expected that boroughs will be properly represented on the Board of a Mayoral development corporation and committees and sub-committees where relevant, the Bill seeks to give the Mayor flexibility to tailor governance arrangements to suit a variety of different scenarios. The provisions set out that we expect members to have relevant experience and capacity; to be in a position to carry out the function of membership and likewise some simple parameters for the membership of committees and sub-committee. It would not be right to introduce further prescription to determine who the Mayor can and cannot appoint.

Mayoral Development Corporations – 182P

Mayoral Development Corporations should have the flexibility to form committees and sub-committees that are tailored to their role, and can include relevant and appropriate representation from local authorities, businesses and community groups and organisations. It is these local officials and organisations that will best understand the regeneration needs of their area, and can bring that experience to bear in advising a Mayoral development corporation. The provisions are designed to enable this but we will consider whether any changes are needed to them to achieve this goal.

Delegation to London Mayor and core cities- 183, 183A, 184, 184ZA, 186AC, 186AD, 186AE, 186AF, 186AG, 186D

Delegation of functions by Ministers to the Mayor - 183, 183A, 184, 184ZA

Amendments 183, 183A, 184 and 184ZA deal with delegation of functions by ministers to the Mayor. The proposed amendments are not necessary as the Delegation power is not new; rather it replicates a similar power under the Regional Development Agencies Act 1998. The only functions which can be delegated by Ministers to the Mayor under this power will be those which the Secretary of State considers can be appropriately exercised by the Mayor – for example the administration of national regeneration or business support programmes to reflect London's circumstances, as occurred under the previous Government. Moreover, this is a power to delegate, not to devolve - Ministers will continue to retain some oversight of the delegated functions.

That said, the government recognises borough concerns that this power could be used in a way which could marginalise their role and there needs to be greater transparency about the use of this power, for instance by requiring Ministers to consult boroughs before the use of the power. We are reflecting further on this issue.

Core Cities – 186AC, 186AD, 186AE, 186AF, 186AG, 186D

This group of amendments have been championed by the Core Cities Group. Our cities are crucial to our future economic growth and to our ambitions to restructure and rebalance our national economy. On 19 July we announced our proposals for strengthening the co-ordination of policy that relates to cities across Government. In the light of that announcement the government will be giving careful consideration to how we can best support our cities in tackling the economic challenges they face.

Rail authority for London and London transport users' committee – 185, 186

Transport for London: Rail Authority for London - 185

Amendment 185 would make Transport for London the franchising authority for all main-line rail services in Greater London. Transport for London's (TfL) already has significant powers through its responsibilities for the London Overground concession. The Department for Transport (DfT) has a statutory duty to consult with TfL in developing London area franchises and is mindful of TfL's aspirations here. It is also open to TfL, with DfT's agreement, to pay for additional service levels on national franchises that serve London or reduce services and keep any savings made.

Furthermore, in a rail service where capacity is limited, it will always be necessary to balance the inherent tensions between the needs of London-area and non-London services in the interests of all users and to keep overall costs down. The Government has welcomed the publication in May of Sir Roy McNulty's independent study of rail value for passengers *Raising the potential of GB Rail* and will deliver its response later this year.

London Transport Users' Committee - 186

Amendment 186 would transfer London Travelwatch to the London Assembly. Outside the capital, *Passenger Focus*, conducts its operations independently of Government, although it is funded by the Department of Transport. London passengers need similar reassurance that policy will be developed and their complaints dealt with in a genuinely independent manner. Furthermore, the Assembly has given no indication of how it would deal with the substantial individual casework undertaken by London Travelwatch every year. However DfT Ministers are looking at ways to improve the value for money offered by London Travelwatch, and will work with the Assembly and other interested parties to explore ways to deliver an efficient and effective ombudsman function for London commuters.

GLA – Shared services – 186A

The government is aware the Mayor has an ambitious shared services programme for the GLA Group. There may currently be a number of legislative gaps, with several bodies in the GLA's ambit not covered, potentially restricting further opportunities for savings and efficiencies. We are discussing further with interested Peers and with the Greater London Authority how best to take the issue forward.

Local enterprise Partnerships – 186AA

Amendment 186AA would have required the Secretary of State to take steps to introduce a model constitution for the formation of local enterprise partnerships within three months of the passing of this act. Local enterprise partnerships are locally led partnerships of business and civic leaders coming together to provide strategic leadership to drive sustainable economic growth.

In our Local Growth White Paper ("Local Growth: Realising Every Place's Potential", HM Government, October 2010) it was stated that we do not intend to define local enterprise partnerships in legislation. There is no intention to impose a particular model on them. The constitution and legal status of each partnership will be a matter for the partners, informed by the activities that they wish to pursue.

However, we recognise that getting the right board membership is key to securing effective business engagement. As we said in the Local Government White Paper, we would normally expect to see business representatives form half the board with a prominent business leader in the chair. Whilst we are not being prescriptive as to who should sit on partnership boards, we would expect to see business members drawn from a breadth of experience, from small enterprises through to large businesses, representing the key sectors in their local area.

Post-legislative Impact Assessment - 187B

Amendment 187B would mean that the Department has to produce a post-legislative impact assessment setting out the additional expenditure incurred by relevant authorities as a direct consequence of this Bill.

There is already an established process in place for post-legislative scrutiny of Acts. As set out in Cabinet Office guidance, Departments are required to submit a memorandum to their departmental Select Committee 3 to 5 years after Royal Assent of an Act. This memorandum sets out a preliminary assessment of how the Act has worked out in practice, relative to objectives and benchmarks identified during the passage of the Bill. In addition, the individual impact assessments for the specific policies in the Bill are accompanied by a post-implementation review plan. This amendment to insert a further requirement to produce a post-legislative impact assessment is therefore unnecessary.

With regards to any concerns that this Bill places additional expenditure on local authorities, inevitably putting the provisions into practice is going to mean local authorities taking on some new responsibilities. However, the Government is committed to ensuring that any additional burdens on councils are funded in accordance with the new burdens doctrine.