



HM Government

Local welfare provision in 2015/16

A consultation document

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This document/publication is also available on our website at www.gov.uk

October 2014

ISBN: 978-1-4098-4349-8

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The Consultation Process and How to Respond

Scope of the consultation

Topic of this consultation:	The topic of the consultation is how local welfare provision should be funded in 2015-16.
Scope of this consultation:	This consultation sets out the Government's proposals on how local welfare provision could be funded in 2015-16.
Geographical scope:	England.
Impact Assessment:	The proposed policy is not within the scope of the Reducing Regulation Committee and so does not require an Impact Assessment.

Basic Information

To:	This consultation is aimed primarily at local government and other interested parties.
Body responsible for the consultation:	HM Government
Duration:	10 October 2014 to 21 November 2014 (6 weeks)
Enquiries and how to respond	<p>For enquiries and to respond to this consultation, please e-mail: LWP.consultation@communities.gsi.gov.uk</p> <p>When responding, please ensure you have the words "Local welfare provision consultation" in the email subject line.</p> <p>Alternatively you can write to: Welfare Reform Division 4th Floor Fry Building NW Quarter 2 Marsham Street LONDON SW1P 4DF</p> <p>Responses to this consultation must be received by 21 November 2014.</p> <p>When responding, please state whether you are responding as an</p>

	individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and/or organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.
Compliance with the Code of Practice on Consultation:	This will be a 6 week consultation. In this consultation we are seeking views from local authorities and other interested parties. We believe that six weeks provides sufficient time for considered responses given respondents have also had the opportunity to comment through the provisional Local Government Finance settlement 2014-15 and the Technical Consultation on the 2015-16 Local Government Finance settlement.

Background

Getting to this stage:	See chapter 1
Previous engagement:	See chapter 1

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on HM Government.

The Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Help with queries

Questions about the policy issues raised in the document can be sent to the address given in Basic Information above.

A copy of the consultation criteria from the Code of Practice on Consultation is at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>. Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about how we can improve the process, please write to:

Welfare Reform Division
4th Floor Fry Building
NW Quarter
2 Marsham Street
LONDON
SW1P 4DF

Chapter 1

Background and aims of consultation

- 1.1 Parts of the discretionary Social Fund, introduced in 1987, were abolished by the Welfare Reform Act 2012. This paved the way for the delivery of new local provision to replace Community Care Grants and Crisis Loans. The rationale for this change was that the Social Fund scheme was not working as intended. It had become complex to administer, was poorly targeted and open to abuse. The Government believes that local authorities, with their existing social care strategies and duties, are better placed to determine the support needs of local vulnerable people than the old central and remote Social Fund system.
- 1.2 This change was part of the Government's overall policy of localism.
- 1.3 The Social Fund reforms were the subject of extensive consultation in 2010 and 2011, an Equality Impact Assessment¹ in March 2011, an Impact Assessment² in October 2011 and Parliamentary debates between November 2011 and January 2012. The Welfare Reform Act 2012 received Royal Assent in March 2012.
- 1.4 Implementation of the changes was also the subject of consultation with local authorities at workshops in February, March, April, September and October 2012 and a dedicated Social Fund Reform webpage³.
- 1.5 The 2010 Spending Review set the framework for Government support to local government for the four years from 2011-12 to 2014-15. Following the abolition of the discretionary Social Fund, all of the available funding for the Community Care Grant and Crisis Loans elements of the discretionary Social Fund was passed to upper-tier English local authorities and the devolved administrations on a non-ring-fenced basis from April 2013 for the final two years of the Spending Review, i.e. up to March 2015.
- 1.6 The funding was distributed on the basis of historical Crisis Loan and Community Care Grant demand and spend data by local authority area. At the time this was felt to be the best way of distributing the funding. It did not take account of an area's future requirements. However, the final year of funding, 2014/15, was adjusted down to take account of projected efficiency savings.

¹ <http://www.parliament.uk/documents/impact-assessments/IA11-022BI.pdf>

² <http://www.parliament.uk/documents/impact-assessments/IA11-040C.pdf>

³ <http://webarchive.nationalarchives.gov.uk/20130513091402/http://dwp.gov.uk/local-authority-staff/social-fund-reform/>

- 1.7 In August 2012 the Minister for Pensions, Steve Webb, wrote to local authority chief executives describing the Government's intentions for this funding:

“As you are aware, the Government has decided that it would not be appropriate to place a new duty on local authorities/devolved administrations in respect of the new provision you are planning. You need to be able to flex the provision in a way that is suitable and appropriate to meet the needs of your local communities. However, whilst we do not want or expect you to replicate the current scheme in either whole or part, it is incumbent upon me to say that it is the intention of the Government that the funding is to be used to provide the new provision. Whilst the Government recognises the difficulties relating to the boundary between providing financial support and social services, we expect the funding to be concentrated on those facing greatest difficulty in managing their income, and to enable a more flexible response to unavoidable need, perhaps through a mix of cash or goods and aligning with the wider range of local support local authorities/devolved administrations already offer. In short, the funding is to allow you to give flexible help to those in genuine need.”

- 1.8 From April 2013, local authorities could therefore set up their own local welfare schemes or choose other ways of providing flexible help. The Department for Work and Pensions paid the amount that would have been available for Community Care Grants and Crisis Loans for the remainder of the current spending review period (i.e., to 2015) to local authorities through grants under section 31 of the Local Government Act 2003 for 2013/14 and 2014/15.
- 1.9 The Government informed local authorities that the allocation of future funding would be assessed and reviewed as part of the next Spending Round settlement.
- 1.10 The Department for Work and Pensions are currently reviewing how the funding has been used in 2013/14 and its anticipated use in 2014/15. The findings will be made public shortly, sent to all local authorities that received funding and placed on the Gov.UK website. You may wish to reference this review before submitting a response to this consultation.
- 1.11 Spending Round 2013, which was published in June 2013, set out the Government's spending plans for the final year of the current Parliament (2015-16). The Spending Round 2013 document set out the overall size of the Local Government budget which informed the draft 2015-16 Local Government Finance Settlement published by DCLG in December 2013. This included new funding for the Troubled Families' programme, health and social care, and local service transformation⁴. It followed several

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209036/spending-round-2013-complete.pdf.

months of evidence gathering and consultation with local authorities and other groups.

- 1.12 As part of the Spending Round 2013, the Government provided for a number of areas of local authority spending, including local welfare provision, to be funded from within Revenue Support Grant, rather than being the subject of separate grants.
- 1.13 It was intended that, from April 2015, local welfare provision would be funded from general grant to Local Government, instead of an identifiable sum being made available specifically for this purpose. Local authorities would continue to decide what local provision to provide and at what cost, as they are best placed to understand the needs of their local communities.
- 1.14 This decision was recently challenged in judicial review proceedings which have now been settled. The Government has committed to making a fresh decision as to how local welfare provision should be funded in 2015/16.

Chapter 2

2015/16 Funding options and Impact on protected groups

2.1 The Government is currently considering three different approaches to funding local welfare provision in 2015-16. There are however four options set out below on which we are seeking your views. The fourth option gives you an opportunity to make representations on a different approach to those set out in options 1 to 3.

Option 1 – Funding from existing local government budgets

2.2 Local welfare provision would be funded from within existing budgets, with no separately identified or ringfenced funding. Local authorities have the flexibility to use available funds from Revenue Support Grant or other sources in accordance with local priorities.

Option 2 – Separate visibility of local welfare provision funding

2.3 The Government could publish a figure showing how much of each upper tier local authority's Settlement Funding Assessment⁵ would notionally relate to local welfare provision based on previous trends, through a line in the spending power supporting information table. The total national figure for local welfare provision assumed for England would be a matter for the Government to decide taking account of this consultation, the Department for Work and Pensions' review into current provision, and other matters. There would be no change to the proposed settlement or the distribution of Revenue Support Grant⁶.

2.4 This could be done in two ways:

- **Option 2 (a)** in line with the Settlement Funding Assessment for 2015-16 proposed in the summer technical consultation.
- **Option 2 (b)** in line with the allocation of local welfare provision in 2014-15.

2.5 Under option 2(a) a local authority's share of local welfare provision would be calculated using the same methodology used to calculate their share of annual local government finance settlement funding. This reflects

⁵ Settlement Funding Assessment comprises, at a national level, the total Revenue Support Grant and the local share of Estimated Business Rates Aggregate for the year in question. On an individual local authority level it comprises each authority's Revenue Support Grant for the year in question and its baseline funding level uprated year on year in line with RPI.

⁶ Revenue Support Grant is Government grant which can be used to finance revenue expenditure on any service.

in part local circumstances and need⁷. Under option 2(b) a local authority's share of local welfare provision would be calculated using the same methodology as the 2014-15 grant funding (see para 1.6). Options 2(a) and (b) would therefore have different notional distributions to inform local discussions about levels of service provision. For many authorities the order of magnitude of the notional funding would be the same under both options, but for some the difference would be significant.

2.6 This approach was mentioned in the summer technical consultation on the local government finance settlement 2015-16. Six responses specifically commented on this option, expressing the view that it would raise expectations on funding for local schemes and pre-empt a local decision on the funding.

Option 3 – Topslice Revenue Support Grant to fund a section 31 grant

2.7 It would also be possible to topslice Revenue Support Grant to fund a section 31 grant⁸ for local welfare provision. The total amount set for Revenue Support Grant in the June 2013 Spending Review would not change. The amount to topslice for local welfare provision for England would be a matter for the Government to decide taking account of this consultation, the Department for Work and Pensions' review into current provision, and other matters. This topslice could be redistributed in the same two ways as for options 2(a) and 2(b):

- **Option 3 (a)** in line with the Settlement Funding Assessment for 2015-16 proposed in the summer technical consultation.
- **Option 3 (b)** in line with the allocation of local welfare provision in 2014-15.

2.8 Unlike options 2(a) and 2(b) this option would reduce the unringfenced funding available to upper-tier local authorities and ringfence the funding available for local welfare provision only. Options 3(a) and 3(b) would redistribute this topsliced funding in different proportions. For many authorities the order of magnitude of the redistributed funding would be the same as the topsliced funding under both options, but for some the difference would be significant. Government would reserve the right to claw back funding that was not spent on local welfare provision.

2.9 Under options 1, 2 and 3 the total amount of funding to local government would not change. However under option 3 the element relating to local welfare provision would be ring-fenced. For all these options, Government considers that local authorities remain best placed to assess the needs of the vulnerable people in their areas. So it would be for them to decide

⁷ <https://www.gov.uk/government/publications/a-guide-to-the-local-government-finance-settlement>

⁸ Section 31 of the Local Government Act 2003 ("section 31") is a wide-ranging power which enables any Minister of the Crown, with the consent of the Treasury, to pay grant to any local authority in England towards expenditure incurred or to be incurred by the authority.

how to organise their local schemes. We do not propose to introduce any legal duties, central guidance or reporting requirements on how to use the funding.

Option 4 – Other options for delivering and funding local welfare provision

2.10 The Government previously concluded that the wider package of funding in 2015-16 for Local Government, agreed at the Spending Review, was sufficient for local authorities to continue their local welfare provision if they judged it a priority in their areas.

2.11 The Government also previously concluded that local authorities, with their existing social care strategies and duties, are better placed to determine the support needs of local vulnerable people than the old central and remote Social Fund system.

2.12 However if you have proposals on other options for delivering and funding local welfare provision (which may include proposals to create opportunities for efficiencies by aligning local welfare provision with other public services) then please share them. If your proposals imply additional funding over and above what has already been provided to local authorities then please provide robust evidence to support this. You may wish to build on any evidence already supplied to the Department for Work and Pensions' review of current provision if relevant.

Questions on funding options

2.13 **QUESTION 1** – Do you have a preference for options 1, 2a, 2b, 3a, 3b or 4? Please explain how you have come to this view.

2.14 **QUESTION 2** – If you have provided representations on option 4, how else would you propose delivering and funding local welfare provision? What evidence can you provide to support this?

Equalities Impact

2.15 The Public Sector Equality Duty is set out in section 149 of the Equality Act 2010. It requires Ministers to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not, which involves having due regard, in particular, to the need to:
 - remove or minimise disadvantages suffered by people who share a protected characteristic that are connected to that;
 - take steps to meet the needs of people who share a protected characteristic that are different to those who do not. The steps involved in meeting the needs of disabled people that are different from the needs of people who are not disabled include, in particular, steps to take account of their disabilities;

- encourage people who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low; and
- foster good relations between people who share a protected characteristic and those who do not, which involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

2.16 The Government has agreed, having regard to the Department for Work and Pensions' review, to reconsider with appropriate consultation and consideration of equality duties, the question of how local welfare provision should be funded in 2015-16. The Government is therefore keen to understand how the four options described would impact on groups that display protected characteristics and the extent of any impact, bearing in mind that there may be impacts that can only be assessed locally by a local authority depending on the decisions made by that authority. You are invited to submit your views and any supporting evidence on this question.

Questions on equalities impact

2.17 **QUESTION 3** – What is the likely impact (and extent of any impact) on groups that display protected characteristics of the four options discussed?

2.18 **QUESTION 4** – Do you agree that some impacts can only be assessed locally depending on the decisions made by individual authorities?

2.19 **QUESTION 5** – If your preference is for option 4, and you have proposed an alternative way of delivering and funding local welfare provision, please outline how this will adhere to the public sector equalities duty.

Chapter 3

Timetable for implementation

- 3.1 Upper-tier local authorities already have local welfare provision in place. This consultation is about how to fund that provision in 2015-16. We do not believe that there are any implementation issues to consider.
- 3.2 The Government has committed to analysing the responses to this consultation alongside the findings of the on-going Department for Work and Pensions' review into the existing provision. We will make a decision on funding for 2015-16 in time for the provisional local government finance settlement in December 2014.
- 3.3 Any changes that are needed to the local government finance settlement as a result will be made as part of the provisional settlement, which will follow shortly after the Autumn Statement on 3rd December 2014. Respondents will have a further opportunity, through the consultation on the provisional settlement, to comment on this before it is finalised in early 2015.
- 3.4 **QUESTION 6** – Do you agree that this is the right timetable?

Annex A

List of questions

QUESTION 1 – Do you have a preference for options 1, 2a, 2b, 3a, 3b or 4? Please explain how you have come to this view.

QUESTION 2 - If you have provided representations on option 4, how else would you propose delivering and funding local welfare provision? What evidence can you provide to support this?

QUESTION 3 – What is the likely impact (and extent of any impact) on groups that display protected characteristics of the four options discussed?

QUESTION 4 – Do you agree that some impacts can only be assessed locally depending on the decisions made by individual authorities?

QUESTION 5 – If your preference is for option 4, and you have proposed an alternative way of delivering and funding local welfare provision, please outline how this will adhere to the public sector equalities duty.

QUESTION 6 – Do you agree that this is the right timetable?