



Local councils, local solutions

The freedom to deliver better services

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Cover picture: Third Avenue

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Published by the Association of London
Government

June 2004

Foreword

by Sir Robin Wales

Chair, Association of London Government

London boroughs welcome the Government's continued commitment to good local services for all communities. The Association of London Government fully supports the recognition in the 2001 White Paper, *'Strong local leadership – quality public services'*, that councils have a key role to play in enabling people to receive better and more responsive services through arrangements that reflect local circumstances and empower local communities.



Sir Robin Wales

Delivering the right services to Londoners is a matter of striking a balance between national and local priorities. Councils need a supportive environment that allows them to develop and maintain effective performance without being overly constrained by unnecessary regulation and inflexibility. We recognise that much has already been done to achieve greater local autonomy and it is important that we continue to work together to build on this and keep the momentum going.

Continuous service improvements and innovation are dependant on allowing local authorities the freedom to develop new solutions without some of the many controls and barriers they have faced in the past. The planned review of the level of inspection and audit as part of the devolving decision-making process will be welcomed throughout local government. Removing duplication from the many inspection and audit regimes will help to provide more scope for achieving even greater efficiencies and delivering better value services. This is good news for all council tax payers.

The nature of the central/local framework is fundamental to delivering genuine localism. Therefore, the devolving decision-making review needs to assess the emerging findings from the Balance of Funding Review and the debate flowing from the Barker Review. So too must it recognise the role of capping and passporting funding to schools in limiting real choice at local level; acknowledging that the retention of some key elements of central control continue to restrict wider local autonomy.

The ALG's report is intended to be a positive contribution to the developing freedoms and flexibilities agenda. We welcome the genuine improvements in devolving decision-making that have already been achieved. But there are still a number of specific examples of rules and regulations that are getting in the way of delivering more responsive local services. We believe that by working together we can remove some of these constraints and achieve even greater flexibility to deliver better local solutions.



Executive summary

The emphasis on more responsive and continuously improving local services has put a much greater focus on identifying freedoms and flexibilities which could help to deliver change.

The 2001 White Paper *'Strong local leadership – quality public services'* sets out a Government commitment to build on the Local Government Act 2000 by giving councils the powers to make a real difference. This includes removing some central controls and simplifying existing powers so they can be used more effectively. The Local Government Act 2003 has broadened the range of freedoms available to local authorities, particularly those identified as fair, good and excellent councils by the Comprehensive Performance Assessment (CPA) process.

The Association of London Government has worked with the 33 councils in the capital to help compile a London contribution to this important and developing area of work. This report draws on councils' experiences of the first generation of Local Public Service Agreements (LPSAs) to identify what more can be done to develop new freedoms and flexibilities to help councils deliver lasting improvements to local communities.

The key findings arising from the ALG's consultation with London boroughs highlight that, while the reforms from the Local Government Act 2000 and those currently being delivered by the 2003 Act are welcome, they are not extensive enough to provide councils with the amount of flexibility they need to support major innovation and make continuous improvements across all service areas. Boroughs' experience suggests that the LPSA process should not be seen as a key route for delivering the major policy changes necessary to create a more dynamic environment. More consideration also needs to be given to how best to support local experimentation by providing incentives which actually recognise that more creative solutions involve an element of risk-taking.

The Association believes that a more systematic approach to identifying and removing obstacles to better performance for a wider group of councils would offer the greatest scope for progressing the freedoms and flexibilities agenda. The proposals identified in *'Better freedoms and flexibilities, better local services'*,

are not intended to be a comprehensive list. Instead they illustrate some of the many constraints still limiting boroughs' capacity to innovate and achieve better and more responsive local services.

Summary of key recommendations

A smoother process for negotiating Local Public Service Agreements

- Aim to resolve the difficulties arising from the process of negotiating the first generation of Local Public Service Agreements
- Demonstrate far greater cross-departmental commitment to joint working and consistency of approach.

Rationalising inspections and targets

- Review the number and nature of all targets to ensure they are appropriate, meaningful and their purpose fully understood by both central and local government
- Rationalise the amount of inspection and remove duplication created by different inspection and audit regimes.

Using freedoms and flexibilities to enhance local services

- Extend the removal of ring-fencing to additional specific and targeted grants
- Rationalise and simplify funding streams
- Ensure a cross-departmental commitment to announcing grant amounts and conditions sufficiently in advance of the start of a financial year
- Ensure that licensing and planning fees cover the cost of providing these services
- Allow authorities greater flexibility to charge for discretionary services to allow investment in a more proactive approach to environmental services
- Relax VAT partial-exemption restrictions
- Allow appropriate data sharing, particularly for partnership working
- Allow capital contributions to pension funds
- Consider a wider range of penalties to help tackle community issues more effectively.

Better public services, more local choice

The Devolving Decision Making Review marks an important new era for central and local government in aiming to achieve the right balance between devolution, accountability and more-responsive regional and local service delivery. Councils in the capital welcome the move towards greater freedom to innovate and to tackle the issues that their communities really care about. This report sets out London's initial contribution to this developing agenda.

The next stage in the Devolving Decision Making Review provides an opportunity for central and local government to consider jointly how best to ensure and maintain high service standards without constraining local autonomy.

In *'Delivering better services: refining targets and performance management'*¹ the Government has recognised the need to reduce unnecessary targets and controls beyond Local Public Service Agreements, thereby shifting the balance toward stronger local performance management and allowing greater local flexibility. The freedom to tailor services to local needs is particularly welcome because it allows for more meaningful public engagement and stronger local accountability.

Learning from the experience so far

In spring 2004 the ALG consulted all London councils about their experiences to inform a London contribution to the debate on how freedoms and flexibilities can help deliver continued improvements. They were asked for their views on Local Public Service Agreements (LPSAs) and how the current regime of inspections and targets has worked in practical terms and their impact on service delivery.

The Association also felt that authorities would be in a good position to gauge the delivery and impact of the freedoms and flexibilities set out in the 2001 White Paper, *Strong leadership – Quality public services*² and in the subsequent Government announcement³ in November 2002. Councils were therefore asked for their thoughts about how the existing range of freedoms and flexibilities could be enhanced to ensure more effective and responsive local service delivery and greater efficiencies.

'The best performing localities will soon have even more freedoms and flexibilities that reflect a Government that enables and empowers rather than directs and controls.'

'This new direction – this agenda for prosperity and social reform – moves us forward from the era of an old Britain weakened by 'the man in Whitehall knows best' towards a Britain strengthened by local centres awash with initiative, energy and dynamism.'

Devolving decision making: Delivering better public services, March 2004

'We want a vibrant local democracy in which councils deliver high quality and improving local services and provide strong and confident leadership. We will work with local government to achieve this and remove unnecessary controls which stifle local innovation.'

White Paper, 'Strong local leadership - quality public services'. December 2001

Twenty five of the 33 London councils (76 per cent) responded to the ALG consultation. This sample represents councils of all political control with good geographical coverage in both inner and outer London. It also includes the full range of Comprehensive Performance Assessment (CPA) outcomes.

Local public service agreements – the London experience

London boroughs generally supported the rationale behind LPSAs and were positive about the potential for greater local autonomy and enhanced performance. A number of councils felt there was still some over-emphasis on national priorities. Some identified LPSAs as having potential for securing the delivery of the

community plan, helping to encourage partnership working towards shared rewards and better performance management.

One of the most difficult areas for all councils who had embarked on LPSAs was the process of negotiating first-generation agreements. They pointed to a general lack of coherence between the approaches taken by different government departments. Boroughs describe the positions adopted by civil servants involved in the process as ranging from 'innovative' and 'constructive' to 'inflexible'.

'The ODPM at least accept it might be a good idea in theory, but other departments hold the whip hand.'

Outer London council,
May 2004

The inconsistencies in response and performance between different government departments were particularly apparent when negotiating specific freedoms

'We spent 15 months chasing and cajoling civil servants intent upon arguing the principle rather than progressing the practice.'

Inner London council,
May 2004

and flexibilities for inclusion in individual LPSAs. Generally, London boroughs felt that discussions were unnecessarily difficult and protracted.

Authorities provided examples of lengthy negotiations (frequently over a year) with one department before any progress was made, only for

another department to immediately 'stop it in its tracks.' London councils felt some of the most innovative ideas were stymied in this way.

'The reward system should place a greater emphasis on innovation, accepting that there is a higher risk involved with experimentation.'

Inner London council,
May 2004

Councils also identified the limited take up of round one performance reward grants, and the significant period before real cash benefits materialised, as disincentives. Councils commented that the current reward system hinders innovation because it deters authorities from tackling difficult issues as they are likely to receive less reward funding.

Generally, most responding councils argued that the process of negotiating worthwhile freedoms and

flexibilities in individual LPSAs was more difficult than it should be and needed to be reviewed.

One borough described the LPSA negotiation as far removed from the concept of 'partnership and equality'.

The feedback from London councils echoes many of the findings of the Office of the Deputy Prime Minister (ODPM) in its initial

assessment of the experiences of negotiating freedoms and flexibilities⁴. This highlights many of the frustrations of council officers and government officials in attempting to understand each others positions and in getting to grips with a challenging new process.

'Too many cooks – we would get something agreed with one official only to find a second and third then appear in the equation'

Inner London council,
May 2004



Many London councils experienced difficulties negotiating LPSAs

The report candidly admits that all too frequently government officials' first response was to say 'no' to new freedoms and flexibilities proposed by local authorities. The ODPM concludes that this reflects a way of dealing with what many officials considered to be 'overload' and their perception that LPSAs were 'an addition to their day job'.

Often officials found it difficult to justify their rejection of individual freedoms and flexibilities with 'real world' reasons. While some rejections were reasonable because they would have required changes to primary legislation, others were rather more obscurely rejected for reasons of 'process'. Many officials were primarily motivated by 'the desire to maintain a tidily rational and efficient administrative process' rather than the impact of constraints on outcomes.

'More often, officials struggle for a 'real world' reason that stands up to examination.'

ODPM, June 2003
On the refusal to grant freedoms and flexibilities

The ODPM report reinforces the view of London councils that joined-up working between different government departments was problematic.

'Freedoms and flexibilities turned out to be a damp squib – not least because of the difficulty of getting agreement across government departments.'

Outer London council,
May 2004

It points out that 'where an authority seeks a freedom and flexibility that is the responsibility of a different department from the one responsible for the target, there tends to be less positive engagement by the department from which the freedom was sought. Thus

discouraging targets that tackle issues that cut across traditional policy boundaries.'

The ODPM analysis indicated that authorities needed to consider the strength and direction of their individual case for local freedoms and flexibilities. ODPM officials central to the LPSA process encouraged a much greater focus on arguments to support the removal of obstacles currently preventing councils from achieving greater 'stretch' in performance. They report that the first generation LPSAs reflected a tendency to focus on less compelling arguments more usually related to enhancing councils capacity to get on with the real job.

Moving the freedoms and flexibilities agenda forward

The process of negotiating first-generation LPSAs has been an important learning curve for everyone involved. On a positive note, London councils believe the problems they encountered during the process are

not insurmountable. But they feel the effectiveness of the second round of agreements is largely dependant on taking on board lessons from the earlier negotiations.

Local authorities are keen to ensure that the Government does not push ahead with the new agreements without a co-ordinated, cross-departmental assessment of the difficulties emerging from round one and to put in place practical solutions to resolve them.

A welcoming government official to act as a contact point, providing advice and guidance, would help individual councils to negotiate the process more effectively.

For London councils (and likely for other authorities too), one of the key conclusions is that LPSAs cannot be considered the primary route for negotiating freedoms and flexibilities that will enhance effective performance.

The ODPM reinforces this conclusion by recognising that freedoms and flexibilities in LPSAs are largely confined to the detail of implementation of policy, rather than the substance. Officials point out that 'at best the individual argument might become part of a "growing voice" in support of a review of policy.'

The ODPM acknowledges the value in looking at the recurring themes in the individual freedoms and flexibilities proposed by authorities to help remove obstacles more widely. The ALG believes that this more general approach would seem to offer the greatest scope for progressing the freedoms and flexibilities agenda.

Reducing inspection and targets

Inspection and targets have been an important and necessary part of the early strategy to improve and maintain good quality local services.

While the rationale for a heavier concentration of such processes is understandable in the early years, the ALG believes that the current volume of controls and processes is now unnecessarily onerous. The Association welcomes the Government's recent recognition of this issue and its commitment to explore how unnecessary targets can be reduced and how stronger local performance management can underpin continued improvement.

Councils in the capital agreed about the need to move forward from the sheer number of targets and level of

inspection and intervention in the last six years. Many London boroughs felt a growing sense of being overwhelmed by the seemingly inexplicable level of detail, which appeared to serve no real purpose.

London authorities consider that future targets need to be appropriate, meaningful and their purpose fully understood by both central and local government.

There was a fairly mixed picture about whether authorities had actually experienced the reduction in inspection they had expected. A few councils in the capital felt the inspection holiday had been properly observed or had noticed some reduction in inspection and the level of audit fees. Others, including some good and excellent boroughs, were frustrated because they felt there had not been a noticeable reduction in the level of inspection in spite of the White Paper commitment.

'We expected a 25 per cent reduction in audit and inspection but the situation seems to have changed little since December 2002.'

Inner London council,
May 2004

A number of councils considered the amount of administration arising from the range of targets, audit and inspection was stifling and counter-productive. This hampered the exercise of local discretion and distracted them from achieving greater efficiencies, more responsive local service delivery and innovation. Boroughs identified the mainstream financial audit as an area that could be rationalised. This was implemented before the system of inspections, Best Value and Comprehensive Performance Assessment were developed and part of this audit is now duplicated by another inspection regime.

'Inspections are an incredible generator of work and expense for public servants. Rationalisation needs to take place to ensure that they are truly effective and useful.'

Inner London council,
May 2004

There was widespread agreement about the need to ensure the current audit requirements have a clear purpose and do not cause unnecessary duplication. London boroughs point out that while the inspection requirements in service areas have increased, there has not been a corresponding decrease in the audit

requirements. The costs of undertaking an audit can be very high and include payment of consultants' fees as part of the process.

Councils argued that the Government needed to address the issue of too much inspection by restricting Comprehensive Performance Assessment (CPA) reviews and related interventions to those few local authorities identified by auditors and inspectors as presenting serious risks.

Likewise, London councils believed there was also merit in looking to reduce the requirements for submissions to government departments from local authority-led partnerships (e.g. the multiplicity of crime and drug plans, strategies and monitoring statements for the overlapping funding programmes and client groups).

Following the Audit Commission's extensive consultation⁵ on CPA 2005, the ALG is optimistic about the opportunity for and delivery of further rationalisation. It is critical that the CPA inspection process works closely with the shared priorities agenda in defining appropriate and simplified targets.



There is a need to move forward from the current volume of inspection and targets

Better freedoms and flexibilities, better local services

London councils believe that the right freedoms and flexibilities could have a significantly greater role in helping to provide good local solutions in the services and areas that communities are most concerned about.

London boroughs welcome the Local Government Act 2003. However, they frequently point to the frustratingly slow progress in delivering many of the freedoms identified by the 2001 White Paper. Many councils feel there are other major constraints preventing them from being able to offer more choice and flexibility in the services delivered locally.

As highlighted earlier, many boroughs felt that the scale of the difficulties arising from negotiating LPSAs meant that the final freedoms and flexibilities granted through this route were considerably less useful than they had envisaged when they embarked on the process. This led a number of councils to conclude that the most sensible way forward was to consider developing a more expansive range of freedoms and flexibilities available to a wider group of local authorities. Focusing on more and better freedoms and flexibilities would help all authorities to work more effectively and to develop creative solutions more suited to local needs.

Most of the proposed approaches recognise the concept of 'stretching' performance but others rightly acknowledge that councils should have the powers to recover reasonable costs to ensure continuous service improvement is actually achievable.

The extended range of freedoms and flexibilities identified below is not intended to be an exhaustive list. It represents an emerging view from London local government on potential options to remove some of the existing constraints to innovation and further progress.

A commitment to more stable and flexible funding

(i) Removing ring-fencing

London boroughs support more flexible grant funding and the growing emphasis on less ring-fencing. They wish to see this extended to other specific and targeted grants. Boroughs feel there is further scope to remove ring-fencing and provide more flexibility for all authorities.



Grants for ICT in schools are too inflexible

Councils believe that the current level of restriction between Standards Fund grants which are only subtly different in nature is both difficult to justify and unnecessarily rigid. For example, Grants 31, A, B & C for ICT in Schools, are overly prescriptive in that the conditions do not allow local education authorities to transfer funding between different elements:

Grant 31 A - Infrastructure and hands-on support

Grant 31 B - Broadband connectivity

Grant 31 C - Electronic Learning Credits.

A number of London boroughs feel it would be sensible to allow virement between these grants both at local authority and school level, since this would allow more flexibility to work within the priorities listed in the three grant categories.

Other grants which would also benefit from less restriction include Building Safer Communities and the PSA reward grant. Currently, a portion of the latter is arbitrarily restricted to capital expenditure. A number of councils argue that this has the effect of reducing the flexibility to use reward funding to improve services.

(ii) Rationalising funding streams

Government departments need to ensure a far greater rationalisation and simplification of grant funding. Funding for asylum seekers and refugees provides an example of the need for a more coherent approach.

The London boroughs provide support and assistance to 60,000 asylum seekers entitled to remain in the UK. The Home Office reimburses the direct costs of accommodation and subsistence for asylum seekers supported under the Interim Arrangements. There is no support for others living in London and assisted by the National Asylum Support Service. There are separate grants for adults and families, unaccompanied asylum-seeking children, a scheme for helping EU asylum seekers return to their country of origin and a scheme for asylum seekers leaving care.

One unified grant is needed to cover local authorities' expenditure in enabling the Government to meet its obligations to refugees.

(iii) The ability to carry funding between years

Generally, authorities also consider there is scope for greater flexibility in allowing grants to be carried over from one year to the next. There are often justifiable reasons for a delay in implementing schemes and the uncertainty over whether a grant will or will not be carried over can create further unnecessary delay and may put innovative projects at risk.

(iv) Revenue grants that allow better service planning

Many London councils believe that specific and targeted grant announcements made close to the start of a new financial year continue to create an environment of financial uncertainty for schools and local authorities. This uncertainty could be removed by introducing a cross-departmental commitment to announcing the amounts and conditions for annual specific grants at least two months before start of the relevant financial year. This would provide much greater financial stability and would allow authorities to plan services more effectively.

Making local authority fees and charges work more effectively

Many London councils expressed reservations about the 'one size fits all' approach to licensing and planning fees because this can significantly penalise individual authorities. Charging structures need to be flexible enough to take account of some regional and local cost variations and differences in the volume of more expensive and complex cases. These mechanisms should ensure that councils are able to recover the reasonable costs of service delivery.

(i) Removing restrictions on licensing fees

Compliance with licensing conditions benefits the local community and has knock-on implications for other local services, such as the police and the hospital services. However, a number of London authorities raised serious concerns that they would face significant costs from the new Licensing Act 2003 that they could not recoup. For example, Westminster City Council estimates a deficit of up to £3 million in the first year of its operation.

The ALG supports a fee structure that is capable of ensuring that local authorities are fully reimbursed for the administrative costs of granting licences. However, if the Government's proposed fee structure proves to be incapable of delivering this fairly modest objective, the Association believes that it should remove the proposed restriction on licensing fees to allow



Councils with large concentrations of licensed premises face significant costs

authorities to recover their full costs. Failure to do so could result in the burden falling on council taxpayers or reductions rather than improvements in service levels. Either outcome is undesirable.

Some consideration should also be given to the benefits of using fees to support more pro-active work, such as warden schemes and campaigns to ameliorate the impact of excessive drinking in areas with large concentrations of licensed premises.

Case Study – Licensing in Westminster

Westminster City Council expects to receive approximately 3,600 licence applications seeking “grandfather rights”, of which 2,500 are expected to apply for a variation to their licence conditions.

The council will have just six months in which to process all applications. The licences must be granted within two months of receipt of an application. To achieve this turnaround in applications, Westminster City Council will need to employ and train a large number of staff, with some of the staff being retained only for a short period only.

The financial deficit to Westminster City Council in the transition period is estimated to be £2,640,000 (this includes the cost of running a parallel service). In the subsequent years Westminster has estimated that it will have a deficit of £2,166,000.

This amount does not include other costs associated with large concentrations of licensed premises, such as producing mobile urinals and night-time street cleansing. These amount to approximately £2.9m in the West End alone.

(ii) Ensuring that planning fees and charges cover service costs

Planning application fees are set nationally by central government. A number of London boroughs raised concerns that the current fee structure does not allow them to cover the costs of the development control service. Local authorities need to be properly resourced in order to deliver improvements in performance. However, restrictions on application fees are preventing service improvements in this area because councils are unable to recover their administrative costs.

The Government needs to identify the levels of planning fees appropriate to ensure some councils are not being



Councils want greater financial powers to deal with fly tipping more proactively

systematically penalised. Officials should consider where charging can be extended so that fees and charges actually cover the cost of providing the service. The cap on the maximum fee payable on planning applications of £11,000 (£22,000 in the case of a very large mixed-use development), has meant that one inner London authority recovers less than one third of the cost of providing its development control service, others report recovering only a quarter of the full cost of this service.

The Local Government Act 2003 now gives councils the power to charge for pre-application advice. However, the ODPM indicates that it is intended to disapply these powers in April 2005 when a new fees and charges regime come into effect. It is essential that the new charging system allows councils to recover these costs in full before the new powers are removed.

Developers want speed and certainty and borough responses suggest that they would be prepared to pay more for a system which delivered prompt, high-quality decisions.

Uncertainty about the level of resourcing through the Planning Delivery Grant and fees and charges create an environment of insecurity. This makes it difficult for authorities to plan ahead, both in terms of funding service improvements and achieving business continuity.

(iii) Charging for discretionary services

Local authorities are unable to charge for services unless given an explicit power to do so by either

statute or by way of an order. The Local Government Act 2003 gives local authorities a general power to charge for discretionary services. However, the power is restricted to the cost of recovery. Many London councils feel this is a disincentive to innovate, improve customer relationships and to develop new markets for their services, especially in those authorities where costs are already much lower because of efficient working practices. A number of London boroughs support local authorities having the discretion to charge for services at a rate that the market will support. They feel this will create a less sterile environment which will allow responsive innovative approaches to be developed more readily.

A number of London councils consider that greater flexibility over charging for discretionary services could allow them to be more pro-active and effective in influencing behaviour on environmental issues, such as waste collection and the prosecution of fly tipping.

Changes to the Environmental Protection Act 1990 which came into effect in February 2003 now allow local authorities to require businesses to produce their Duty of Care records, called Waste Transfer Notes. Local authorities will have more legal control in dealing with fly tipping and ensuring that commercial businesses are aware of their responsibilities. Adequate resourcing is essential to help ensure an effective enforcement operation and to

increase the prosecution of fly tipping and other environmental offences. More consideration needs to be given to the importance of maintaining a sufficient level of income to tackle serious and growing environmental problems.

The case for allowing authorities the discretion to set fixed penalties to curb anti-social behaviour is considered in more detail in 'greater flexibility to help improve the quality of life locally' on page 13.

Improving joined up working

(i) Relaxing VAT partial exemption restrictions

The Government's agenda for local public services includes a strong emphasis on 'joined-up' local service provision for targeted client groups, and increased partnership working both between public sector bodies and with the private sector. In addition, there has been a significant expansion in funding and provision, especially for lifelong-learning initiatives. These policies were underlined by the publication of the Green Paper *'Every Child Matters'* in September 2003, under which children's services are expected to be joined up internally within councils and between local public sector bodies, with local authorities leading joint service delivery.

Local authorities are being encouraged to align capital investment towards the streamlining and, in particular,

Case Study – The impact of VAT rules on the development of children's services in Greenwich

In line with the Government's vision for more responsive children's services, the London Borough of Greenwich is developing affordable childcare provision through a programme of children's centres. However, the VAT partial exemption restrictions have been a major barrier to the local delivery of this and other key national priorities.

The council has incurred expenditure in areas that are classified as exempt and if it chooses to run this facility in-house it will exceed the current 5 per cent VAT exemption limit and thus be liable for full VAT on its total expenditure. Currently, the council is very close to its partial exemption limit. The construction costs of the children's centre in Greenwich are £1.45m but breaching the VAT limit would trigger a repayment of £1.25m to Customs and Excise. In addition it would render the council unable to recover VAT incurred on any future service provision during the remainder of the financial year.

A further dilemma

The financial penalty means that Greenwich will be forced to seek an external operator to run the children's facility. This creates a further dilemma. If Greenwich council levies a market rent it will have to 'opt to tax' the lease. This will increase the costs of the operator and may make the venture look less attractive. In this instance, VAT is a hidden cost to the user and is likely to increase childcare costs.

A Way Forward

One potential solution to the barriers facing Greenwich would be to reclassify children's services from 'exempt' to non-business. This would mean that VAT would be fully recoverable under Section 33 of the VAT Act.

the co-location of services in multi-purpose buildings, often with combined occupancy of different local bodies. Councils frequently lead the development of



Councils are encountering some financial constraints in developing children's centres

such initiatives under their community leadership role with the benefit they enjoy under the VAT legislation allowing them to recover VAT on expenditure. However, it is precisely such multi-occupancy property development schemes that lead to the generation of exempt input VAT and threaten the full recovery of VAT by exceeding the 5 per cent partial exemption limit. In the case of one London borough, this has led to Government grant being refused on the grounds that spending against it would lead to a breach of the partial exemption limit and a negative benefit to the authority. Consequently, government objectives are not being maximised in these circumstances.

The response from Customs & Excise has been to amend the VAT regulations at the margins, by changing the VAT classification of certain supplies made by local authorities from exempt to either standard rated or non-business. The latter takes on board warnings from local authorities (usually district councils) about the likely breach of partial exemption limits and the political consequences for council tax levels that would arise. With these warnings extending to larger unitary authorities more radical action may be more appropriate. One example would be to

'VAT rules threaten to undermine a Sure Start development which incorporates a nursery, crèche, toy library, meeting rooms, café and Sure Start offices.'

London Borough of Greenwich, May 2004

amend the VAT regulations so that property development for joint service delivery by councils could be classed as a non-business activity. Alternatively, consideration could be given to raising the 5 per cent threshold.

In his 2004 budget speech the Chancellor, Gordon Brown, emphasised the Government's commitment to establishing a total of 1,700 children's centres by 2008 with the ultimate goal of achieving a children's centre in every community. London boroughs welcome this initiative and they are committed to help deliver improvements locally. However, the Greenwich case study illustrates some of the real practical constraints that are currently getting in the way of positive change.

(ii) Allow appropriate data sharing

The Department for Constitutional Affairs recognises that public authorities encounter many problems around information sharing with each other, and it has recently issued a tool-kit to help avoid many of the pitfalls of the Data Protection Act 1998.

The growing and welcome emphasis on joined-up working means that greater consideration needs to be given to a mechanism for data sharing which does not compromise good partnerships nor infringes data protection legislation.

Many of the major policy objectives on crime and child poverty rely on different agencies cooperating effectively together. These include child care (schools, social services, health trusts), youth services (Connexions, social services, probation, police, courts services), elderly care (health trusts, social services, the Pensions Service, council tax and benefit services, utilities), and regeneration (Job Centre Plus, benefit services, local Learning and Skills Councils, training providers).

However, data protection principles generally prevent exchange of personal data among the partners unless vital interests of the individual are at stake, or unless the individual has given explicit consent. This rule presents a major hurdle in many partnership negotiations. Instead of compelling public authorities to negotiate their way around the data protection principles, consideration should be given to amending the principles to allow sharing between public authorities in appropriate circumstances. Councils and others involved in partnership working need clear and

explicit guidance about the principles of data-sharing to reduce the level of misinterpretation and misunderstanding that currently exists.

Making the capital finance system work more effectively

Authorities feel the removal of some existing capital finance restrictions would create a more effective system with long-term financial benefits.

Capital contributions to pensions funds

Given recent reductions in stock market valuations and continuing demands made by the age profile of the population, local authority pension funds and other similar funds are under extreme pressure.

Without changes to the current system, councils will face significant increases in the employers' contributions, at a substantial cost to council tax payers. For example, it is estimated that the employers' contribution rate of one high performing pension fund would need to rise to around 20 per cent from the current rate of 4.7 per cent, at an additional cost of some £10m per annum. This authority has one of the best-funded pension schemes in London and at the last actuarial review had an asset to liability funding level of 107 per cent.

Councils feel they should have the flexibility to use capital receipts to make capital contributions to the fund. This will reduce the need for large increases in employers' contributions and provide the opportunity to gain from long-term investments in the stock market.

Including research and development costs

London boroughs also feel that the current definition of capital expenditure should be made more consistent with the treatment of capital investment in other sectors by including research and development costs. It is justifiable to include these costs where they relate to capital investment and/or specific capital projects. Councils believe that the exclusion of such costs from the current definition can act as a disincentive to carry out invest to save projects which could lead to long-term benefits for local residents and businesses.

Reviewing revenue support for capital spending

Many councils in the capital feel it is worth considering whether support for capital spending should be largely in the form of capital grants rather than revenue

support, thereby ensuring that such expenditure is not subject to the uncertainties of Formula Grant.

Greater flexibility to help improve the quality of life locally

Greater financial powers

London councils believe a greater range of financial powers would allow them to tackle anti-social behaviour, nuisance, noise and disruption more proactively. They consider there is scope to explore the potential for setting and levying local civil penalties to create a better living environment for their communities.



The power to charge for reinspection would help improve hygiene standards

The bulk of current enforcement measures lead to fines that provide limited incentive to local authorities to invest in the activity levels really necessary. Fixed civil penalties (with the potential for a discount for early payment) would help to address this issue. Some examples could include :

Charging for reinspections – A charge for the reinspection of premises following contraventions of legislation relating to, for example:

- Health and Safety
- Food Hygiene
- Licensing
- Planning
- Building Control
- Trading Standards

Litter – The discretion to set an appropriate fixed penalty to reflect the scale of the problem

(e.g. flytipping should attract a more significant level of penalty than dropping litter in the street).

Street fouling – The income from fixed penalties in relation to such anti-social behaviour would facilitate the provision of more public conveniences or longer hours of opening thereby improving the service level available to the public.

Removal of telephone boxes causing community safety concerns – Telecommunications operators should have a duty to maintain telephone boxes. Currently, no duty exists under the Communications Act 2003. Consideration should be given to a local authority power to enforce infringements including in extremis power to remove derelict telephone boxes and to recover the costs from the operator.

Cycling on the footway – While the Metropolitan Police have the power to issue fixed penalty notices if cyclists cycle on the footway, they actually issue very few penalties. Some boroughs feel that giving Local Authority Enforcement Officers the power to issue penalties would create a more proactive approach to curb this form of nuisance behaviour.

A more realistic penalty would enable them to recover the full costs of enforcement and may serve as a deterrent.



Councils would like more powers to remove abandoned vehicles on private property

Abandoned vehicles on private property – The Government should consider giving councils the power to enter private property to remove cars that have been abandoned and to require the landlord to cover the cost of removal.

Abandoned cars can prove to be a health and safety risk and can contribute to the deterioration of the general environment. This in turn can lead to anti-social behaviour such as graffiti and flyposting.

Offering services to a wider market

The ability to offer services to a wider market would give councils the capacity to invest in a range of activities which benefit the local community.

Providing services to the private sector

Councils and/or their Arms Length Management Organisations (ALMOs), subject to the relevant regulations under the Local Government Act 2003, could also provide housing management services for private sector landlords. This would result in a private sector contribution to the public sector and to council residents, which could be used to improve efficiency or proactive community investment.

Reviewing constraints to greater effectiveness

This report identifies a number of restrictions which prevent authorities from innovating and operating more effectively.

The ALG believes that the Devolving Decision Making Review offers scope for a wider review of constraints which are currently getting in the way of responsive service delivery.

The Association feels that government departments should work together to remove these obstacles and to deliver a wider range of freedoms and flexibilities to all authorities.

End notes

1. *Devolving decision making: 1 Delivering better public services: refining targets and performance management*, HM Treasury and Cabinet Office, March 2004
2. *'Strong local leadership - quality public services.'* White Paper, DTLR, December 2001
3. Government action following the comprehensive performance assessment: Freedom and flexibilities for local government, ODPM, November 2002
4. Local PSAs steering group, ODPM, June 2003
5. CPA 2005 – *the way ahead*, Audit Commission, January 2004

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