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Our Ref: **FFD/20/RUB**

Welfare Reform Division
HM Government

By email: LWP.consultation@communities.gsi.gov.uk

11 November 2014

Dear Sirs,

Re: Local welfare provision consultation

We refer to the consultation document, *Local Welfare Provision in 2015/16*, published earlier this month.

We have considered this document in conjunction with our clients, and we are concerned that it fails to provide consultees with sufficient information to enable them sensibly to respond to the Government's proposals.

None of the three options on which the Government is consulting involve any "additional" funding being provided to local authorities beyond that which was allocated by way of general grant pursuant to the 2013 spending round. As paragraph 2.10 of the consultation document explains, this is because the Government's view is that the level of general grant was set at a level that is

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sufficient for local authorities to continue to fund the local welfare provision schemes that they currently operate. The consultation document, at paragraph 2.12, makes it clear that if consultees wish to seek to persuade the Government that “additional” funding for local welfare provision should be made available, they will need to provide robust evidence to support their position.

Accordingly, the clear implication of the consultation document is that if consultees wish to persuade the Government that “additional” funding should be provided for local welfare provision, they will have to provide robust evidence explaining why the Government should depart from its current view that the level of general grant has been set at a level that is sufficient for local authorities to continue to fund their local welfare provision schemes. In order for consultees to be able sensibly to respond on this basis, they need to know exactly how funding for local welfare provision schemes was taken into account when the level of general grant was set and why the Government considers that the general grant has been set at a level that is sufficient for local authorities to continue to fund their local welfare provision schemes.

However, the consultation paper does not provide consultees with any meaningful information on either of these points. The difficulties created for consultees by this absence of information is compounded by the general lack of clarity that surrounds the Government’s decision-making in this context to date. By way of example, when on 27 January 2014 the Parliamentary Under-Secretary of State for Communities and Local Government was asked by the House of Commons Communities and Local Government Select Committee whether the Government “were stopping funding [local welfare provision] completely”, he answered “yes”, and he confirmed that local authorities would have to fund local welfare provision themselves. However, in the summary grounds filed by the Government in response to the claim for judicial review

brought by Mr Jump (CO/1838/2014), it was said that the amount of funding to be provided to local authorities in order to fund LWP Schemes was to remain the same and that all that had been changed was the mechanism by which that funding was to be provided. On the basis of this, it is impossible for consultees to tell how funding for local welfare provision schemes was taken into account, if at all, when the level of general grant was set.

Further, whatever decision was actually taken as part of the 2013 Spending Review, at no point has the Government explained the basis for its view that the level of general grant has been set at a level that is sufficient for local authorities to continue to fund their local welfare provision schemes. In particular, the Government has never explained how it has reconciled the fact there will be an overall reduction in the general grant provided to local authorities with its conclusion that local authorities will nevertheless have sufficient funds to continue to fund their local welfare provision schemes.

Accordingly, consultees are not able to remedy the deficiencies in the consultation document by referring elsewhere. Moreover, without such information consultees are unlikely to be able to provide the “robust evidence” demanded to support a representation that, for example, funding for local welfare provision should be continued at the level provided in 2013/2014.

In the circumstances, we consider that the consultation exercise is unfair by reason of the Government's failure to provide sufficient information to consultees. In this respect we draw your attention to the recent Supreme Court decision in *R (Stirling) v London Borough of Haringey* [2014] 1 WLR 3947.

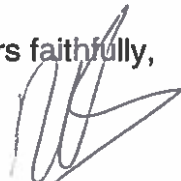
In order to cure that unfairness, we invite you to provide sufficient information to consultees clarifying:

- (1) exactly how funding for local welfare provision schemes was taken into account when the level of general grant was set; and
- (2) why the Government considers that the general grant has been set at a level that is sufficient for local authorities to continue to fund their local welfare provision schemes.

We also invite you to extend the consultation period until an appropriate time after that information has been provided to consultees, in order to allow consultees a fair opportunity to respond, while maintaining government's commitment to reach a decision on the future of local welfare provision funding, cognisant of consultees' responses, in time for the Provisional Local Government Finance Settlement.

We look forward to your early response.

Yours faithfully,



Rubina Begum

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