**LEVY AND SAFETY NET UNDER THE ALTERNATIVE ARRANGEMENTS**

**Introduction**

1. This paper considers how the levy and safety net could be made to work under the alternative model.
2. It does not consider what levy and safety net arrangements might be put in place under the alternative model; the details of any levy and safety net regime – eg where to set safety net thresholds, or levy rates – have been discussed in previous papers in relation to the “conventional arrangements” and will need to be considered in relation to the alternative model in due course. Instead, this paper looks at how any levy and/or safety net could be operationalised under the alternative arrangements, given the current legislative framework.
3. The working group is invited to consider whether the administrative arrangements set out in paragraphs 12 – 17 look sensible and/or whether there are other factors that should be taken into consideration.

**Background – the current levy and safety net framework**

1. The legislative basis for the levy and safety net is provided by Part 7 of Schedule 7B to the Local Government Finance Act 1988. Critically, together with Part 6 of Schedule 7B this provides that:
   1. levy and safety net payments must be credited/debited to a “Levy Account”;
   2. the end-year balance on the account must be carried forward to the following year;
   3. the basis on which levy and safety net payments are to be calculated and made should be provided by regulations;
   4. the calculation of any payments due under those regulations can only be made “as soon as practicable after the end of the year”; but that
   5. “on-account” safety net payments can be made (but not “on account” levy payments);
   6. The Secretary of State can determine that all, or part of a credit balance on the Levy Account at the end of a year can be distributed to authorities in accordance with regulations; and
   7. any amount so distributed must be paid to authorities before the end of that year.
2. The basis on which levy, safety net and “on account” safety net payments are to be made is set out in the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (SI 2013/737) (as amended). Payment of a levy account surplus (as determined by the Secretary of State) is set out in the Non-Domestic Rating (Rates Retention and Levy and Safety Net) (Amendment) and (Levy Account: Basis of Distribution) Regulations 2019 (SI 2019/709).
3. Operationally, the legislative framework dictates that “on account” safety net payments are made on the strength of NNDR1 returns. Final safety net, and levy payments are made following the submission of NNDR3s.
4. Because of the legislative requirement that levy and safety net payments can only be made after the end of the year, the accounting arrangements put in place by CIPFA, mean that in any year’s accounts, authorities must recognise the actual levy and safety net payments due. As a result, there can be differences in the amounts taken into account in the budget-setting process and the amounts to be included in the annual accounts. Any difference is dealt with by authorities through the use of Reserves.
5. In the past, authorities have sought changes to the legislative framework to enable the differences between on-account and final safety net payments, in any year, to be switched into an “adjustment account” at year-end and then reversed-out in the following year. This would enable them to be dealt with in the following year’s budget rather than in the current year by means of Reserves. Changes to primary legislation were set out in the last Local Government Finance Bill, which was withdrawn following the General Election.

**Could levy and safety net payments be included in tariffs and top-ups under the alternative model?**

1. As set out in the paper “operationalising the alternative arrangements”, because tariffs and top-ups are adjusted each year to take account of changes in non-domestic rating income (and “growth”), there is no need for separate payment streams; instead, transitional protection payments, s.31 grants and even Collection Fund surplus/deficits could be rolled-up in the calculation of the tariff and top-up.
2. In theory, at least, it might be possible to imagine also including the calculation for levy and safety net payments in the wider calculation of tariffs and top-ups. However, the legislative constraints, as set out above, make it difficult to see how this might work in practice, because:
   1. there would be no payments into, or from the Levy Account. Therefore, any difference between the adjustments made to tariff/top-ups on account of levy and safety net payments would be “buried” within the overall calculations. As a result, there would be a lack of transparency about whether levy payments exceeded safety net payments, or vice versa;
   2. since the balance on the Levy Account would always be zero, there would be no basis for distributing back to the sector, the “surplus” caused by levy receipts being higher than safety net payments.
   3. given the requirement that levy and safety net payments are calculated and made only after the end of the financial year (and that only safety net payments can be made “on account”), it is difficult to see how we could build levy and safety net payments into the tariff and top-up calculations made following receipt of NNDR1s, without requiring some reconciliation process, which authorities would need to reflect in their accounts. As such, embedding levy and safety net in tariff/top-up calculations does not obviously solve the problem set out in paragraphs 7 and 8 above.
3. In addition, it appears that taken as whole, Part 7 may require there to be regulations making provision for levy and safety net payments. It is arguable, therefore, that rolling levy and safety net payments into tariffs/top-ups is not feasible unless there is legislative change.

**Operationalising levy and safety net payments under the alternative model**

1. This suggests that the levy and safety net would have to work in much the same way under the alternative arrangements as they do now.
2. The basis on which levy and safety net payments are to be made would be set out in Regulations – as indicated in paragraph 2 above. The working group will be invited to consider the basis on which levy and safety net payments would be made under the alternative model in a future paper.
3. On the basis of those calculations, we could prepare a “calculator”, to be sent to authorities at the same time as the NNDR1 in mid-December. This would enable authorities, for the purpose of setting budgets, to estimate their levy and safety net liability/entitlement alongside working out their tariff/top-up.
4. In the same way as now, authorities could apply for a safety net payment “on account” on the basis of their NNDR1 figures. This would be paid over the course of the year.
5. We could re-issue the calculator alongside the NNDR3s, thereby enabling authorities to calculate the levy and safety net payments that would need to be recognised in their accounts.
6. Payments of the levy, and reconciliation of safety net amounts, would be made following publication of NNDR3s, in the same way as now.