

Appendix 1

East Sussex Business Rate Pool

Memorandum of Understanding

This Memorandum of Understanding is made between

- East Sussex County Council
- East Sussex Fire Authority
- Eastbourne Borough Council
- Hastings Borough Council
- Lewes District Council
- Rother District Council
- Wealden District Council

(Together referred to as the 'Pool' or 'Pool Members').

1. Purpose

- 1.1 The main aim of the pool is to maximise the retention of locally generated business rates. The modelling work that has been undertaken by the Pool Members demonstrates that financially the pool area would retain a greater share of business rates revenue through pooling than it would otherwise do, as long as it experiences economic growth. This will act as a further incentive for all the pooling authorities to proactively work together to drive economic growth within the pool.
- 1.2 It is the purpose of this Memorandum of Understanding to act as a Statement of Intent that will support the realisation of these benefits. The Pool Members have agreed to enter into this Memorandum of Understanding to formalise their commitment and to set out their respective roles and responsibilities.

2. Glossary of Key Terms

- 2.1. There are a number of technical terms used throughout this document. The meanings of these terms are as follows:

Levy

A formulaic mechanism to pay a percentage of additionally raised local business rates income over to central government when a target (set nationally for each billing authority) has been exceeded.

Pool

A voluntary arrangement amongst a group of local authorities to pool the business rates generated locally to allow a greater proportion of business rates growth is retained locally.

Safety Net

The additional funding received by an authority, from central government, if, in the government's opinion, the decline in business rates in any year would leave an authority with insufficient resources. Calculated using a national formula.

Lead Authority

The Pool member who will act as the lead in managing the Pool's resources and being the key contact between central government and the Pool

Schedule of Payments

The Lead Authority will prepare an annual schedule that reflects all the financial payments to be processed through the pool, clearly indicating the amount, timings of each payment and who needs to make what and payment to whom.

3. Key Principles

- 3.1. The Pool Members agree that they will operate the Pool in accordance with the following principles:

Increase in Resources

The Pool Members recognise that the fundamental objective of the Pool is to generate increased resources for the area, and individual Pool Members

Risk Management

The Pool Members agree to protect and mitigate as far as possible the risks associated with the level of business rate income. Income streams to the Pool Members may be more volatile, whether as the result of a one-off event (for example a successful large appeal) or something structural within an area (for example the closure of a major plant). The pooling arrangements should reduce this volatility.

Fairness

The Pool Members agree to share the costs, risks and benefits of local business rate retention proportionately. Pool Members should be no worse off than if they were outside the Pool.

Transparency, Openness and Honesty

Pool Members will be open and trusting in their dealings with each other, make information and analysis available to each other, discuss and develop ideas openly and contribute fully to all aspects of making the Pool successful. It also includes sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.

Reasonableness of Decision-Making

Pool Members agree that all decisions made in relation to this Memorandum of Understanding shall be made by them acting reasonably and in good faith.

4. Binding Memorandum

- 4.1. This Memorandum of Understanding is produced as a Statement of Intent and, with the exception of Sections 5, 10 and 11, is not intended to be legally binding.
- 4.2. Sections 5, 10 and 11 are intended to be legally binding and to create obligations between Pool Members with immediate effect from the execution of this Memorandum of Understanding.
- 4.3. Pool Members have approved this Memorandum of Understanding in advance of the Secretary of State designating the Pool for the purposes of the Business Rates Retention Scheme. If the Secretary of State adds conditions to the designation, either initially or at any point in the future an immediate review of this Memorandum of Understanding, as outlined in Section 12, will be triggered.

5. Term of Memorandum

- 5.1. This Memorandum of Understanding is for the financial year April 2019 to March 2020.

- Written notice is given to other Pool Members and MHCLG in at least sufficient time for the Pool to remain in place for the remaining Pool Members, should they wish it to continue. Sufficient time is taken to be at least the time specified by MHCLG in regulations and/or guidance.
- All liabilities to and from the Pool are paid.

6. Decision-Making

- 6.1. The statutory finance officers (Chief Finance Officer) from each Pool Member shall collectively be responsible for overseeing the operation of the Pool and making recommendations to their respective authorities about the way forward.
- 6.2. The Lead Authority shall ensure that reports are sent to the Chief Finance Officer of each Pool Member at least on a quarterly basis updating them of the performance of the Pool and advising them of any issues. These reports should be available within six weeks of the quarter end.
- 6.3. The Lead Authority is able to appoint external support in order to assist with the undertaking of its responsibilities (as per section 9 below) on behalf of the pool. The costs incurred by the lead authority will be shared across the group, as outlined in section 11 below.
- 6.4. For the avoidance of doubt, any substantive decision e.g. commitment of resources, changes in governance or major operational changes shall be referred to each Pool Members' decision-making regime.

7. Dispute Resolution

- 7.1. The Pool Members shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Memorandum of Understanding. If this cannot be resolved by the Chief Finance Officers it will be referred to a meeting of all Member authorities Heads of Paid Service for resolution.

8. Resourcing

- 8.1. Each Pool Member will provide the appropriate resources and will act with integrity and consistency to support the intention set out in this Memorandum of Understanding.
- 8.2. In the event that the Lead Authority needs to incur additional expenditure in order to administer the pool, any reasonable costs agreed by pool members should be the first call on additional business rates income retained by the pool (above what would have been received if the authorities had acted individually).

9. Lead Authority

9.1. Wealden District Council will act as the Lead Authority for the Pool.

9.2. The responsibilities of the Lead Authority are:

To make payments on behalf of the Pool to central government and Pool Members on time and in accordance with the schedule of payments,

To liaise with and complete all formal Pool returns to central government on behalf of Pool Members,

To keep Pool Members informed of all communications with central government,

To manage the resources of the Pool in accordance with this MoU,

To prepare quarterly reports and consolidate intelligence on future resource levels on behalf of the Pool,

To convene an urgent meeting of the Chief Finance Officers if there is the possibility that the pool could make a loss.

To prepare the annual report of the Pool's activity,

To co-ordinate the annual review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources,

To consult on and administer a schedule of all payments in respect of all financial transactions that form part of the Pool's resources, and

To lead on the timely provision of the information required, by Pool Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pool.

9.3. To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:

To make payments on time and in accordance with the schedule of payments,

To provide accurate, timely information to the Lead Authority to enable all formal Pool returns to central government to be completed,

To inform the Lead Authority, as soon as is practical, of any intelligence that may impact on the resources of the Pool either in the current year or in future years,

To provide such information as the Chief Finance Officers agree is reasonable and necessary to monitor/forecast the Pool's resources within the timescales agreed,

To provide such information as the Chief Finance Officers agree is reasonable and necessary on the use of the Pool's resources for inclusion in the Pool's annual report, and

To provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable the Lead Authority to calculate the end of year accounting entries needed.

10. Cash Management

- 10.1. The governing principle for the cash management of the Pool is that no individual Pool Member, including the Lead Authority, should incur a cash flow gain or loss as a result of the transfer of funds between Pool Members.
- 10.2. The Pool will receive/pay interest annually on any retained resource at the average investment rate of the Lead Authority.
- 10.3. Interest will be calculated on an annual basis and allocated to Pool Members based upon a method agreed by the Chief Finance Officers.
- 10.4. Where the Pool is required to make a payment to the Secretary of State, each authority in the Pool is jointly and severally liable to make that payment.
- 10.5. Any late payment may be subject to a late payment interest charge at base rate plus 4%.

11. Allocation of Pool Resources

Principles

- 11.1. The allocation of resources will be based on the following principles:

Each individual authority, if resources allow, will receive at least the same level of funding they would have received without the Pool.

Any additional resource that is generated will be shared by pool members using the basis of allocation below. This allocation methodology looks to reward members of the pool for achieving business rate growth.

Basis of Allocation

- 11.2. The underlying basis of allocation is as follows:

A: The running costs of the pool, if any, will be initially paid by the lead authority and will be paid to them on a pro rata basis (based on the increased resources from being in the pool.

B If after A, there are still resources to be distributed, then authorities will retain their own growth, based on the following local shares:

District Councils	44%
County Council	26%
Fire authority	5%

C: Where the pool makes a loss, the loss will be funded by each Pool Member proportional to the cash amount that would have been received from central government if the Pool arrangement was not in operation from the business rates retention scheme.

12. Review Arrangements

- 12.1. The pool is for 2019/20 only. If required during this period, the lead authority can undertake a review on behalf of the Chief Finance Officers and in sufficient time for any changes to be in place before the end of the following financial year.
13. Signatories on behalf of the Pool Chief Finance Officers: