Agenda Item No: **Report No:**

Report Title: **Business Rate Pooling**

Report To: **Cabinet** **Date:** **29 September 2014**

Cabinet Member: **Councillor Rob Blackman and Andy Smith**

Ward(s) Affected: **All**

Report By: **John Magness, Director of Finance**

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Purpose of Report:

To agree to enter into a Business Rates Pool. An application to be submitted on behalf of the East Sussex County, Borough, and District Councils and the East Sussex Fire Authority in October 2014, subject to it being financially advantageous to do so.

Officers Recommendation(s):

That Cabinet approves:

1 Wealden District Council be nominated as the lead authority

2 That the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool.

3 To split resources gained on the basis of the levy amount that was saved by individual authorities. The basis of the split being 40% to ESCC, 10% to the Fire authority and the remaining 50% split amongst the District/Borough Councils.

4 That the finalisation of the submission, agreement of the Memorandum of Understanding, and the final decision on whether to partake in the pool, along with the annual review, is delegated to respective Chief Finance Officers for the reasons outlined in the report.

5 Chief Finance Officers to review membership of the Pool on an annual basis. Should an authority decide to withdraw membership, notification of intent to do so to be given to the remaining authorities at the earliest opportunity.

Reasons for Recommendations

1 Local authorities are free to come together to form pools for Non Domestic Rating (NDR) purposes. In such cases tariffs and top-ups can be combined – and this can result in more money retained locally to support economic development objectives because lower payments will be made to the government than would be the case without a pool. Authorities within such arrangements need to agree how risks and benefits are shared. A pooling arrangement could result in additional resources being retained within East Sussex. The estimates identify sums of £1.8m in 2015/16, £2m in 2016/17 and £2.2m in 2017/18 which would be shared between authorities and used for economic development purposes.

Introduction

2 A new funding regime was introduced on 1 April 2013 whereby local authorities effectively retain a proportion of any additional business rate income collected (above inflation) or conversely will experience a reduction in resources if the business rate base declines.

3 Under the scheme 50% of business rates is localised through a system of top-ups and tariffs that fix an amount to be paid by high yield authorities and distributed to low yield authorities – this amount being increased annually by inflation (RPI). The proportion retained by individual collection authorities (before application of levy deductions) in East Sussex is 40%, 9% is payable to East Sussex County Council, and 1% to East Sussex Fire and Rescue Authority (the Government receive 50%).

4 The 50% central government share is distributed through the formula grant process (now termed Settlement Funding Assessment) – thus enabling the government to control the overall amount received by local authorities. Where there is disproportionate growth this will be used to provide a safety net for those authorities experiencing little or negative growth and allows the treasury to top slice business rates income. A reset mechanism will be in place with the first reset in 2020 and periods of 10 years between resets thereafter.

5 To date on a national basis there are 18 pools, comprising 111 different authorities.

Top ups and Tariffs

6 These are set that on average, all things being equal, an authority will have started with the same resources under the new system as it had under the old. Thus if a local authority collects £20m in non domestic rates and received £8m in formula grant it will pay a tariff of £12m.

7 The top ups and tariffs will automatically be updated for inflation. This gives top-up authorities e.g. East Sussex County Council, a guaranteed increase in part of their resources and means a tariff authority, whose retained NDR income fails to keep up with inflation, will lose resources. Since the new system Lewes District Council's retained NDR income has kept ahead of inflation.

The Levy

8 At the system outset each NDR collection authority was set a baseline collection target. Where targets are exceeded, tariff paying councils such as Lewes District Council are allocated a 40% share of the additional income, which is then subject to a levy payment of 50% of that share to the Government. The net effect is that for every £1 the target is exceeded, Lewes District Council retains 20 pence. Appendix A sets out the position for 2014/2015 in more detail.

Pooling

9 When a NDR pool is formed the levy payments are no longer payable to the Government. They are retained by the pool members

10 A company called LG Futures has been engaged to collate and advise on the financial viability of the scheme, modelling the key risks and identifying appropriate governance arrangements. LG futures will also help draft and coordinate the submission of an application on behalf of the seven authorities. LG Futures advise over half of the 18 authorities running a pool in the current financial year.

11 A report on the potential for pooling in East Sussex was first considered by the Leaders and Chief Executives/Directors of respective Councils on the 25 October 2013, with a subsequent report on the 25 April 2014 and more recently on the 25 July 2014 where all Councils agreed unanimously that an application should be submitted on the basis of the arrangements and recommendations outlined in this report, the financial headlines of which follows.

12 Table: Financial Headlines: Forecast change in total resources available, due to pooling (January 2014)

	2015/16 £m	2016/17 £m	2017/18 £m	TOTAL £m
Acting individually	91.9	94.9	98.3	285.1
Acting as a pool	93.4	96.8	100.2	290.4
Difference *	**+1.6**	**+1.8**	**+2.0**	**+5.4**

(* rounding)

The “Difference” is an additional amount of resource available over and above any gains from business rate growth within individual districts and boroughs that would arise without a pool.

13 The next opportunity for pooling is 2015/16, with a deadline for submissions of an application to the Department for Communities and Local Government (DCLG) by 31 October 2014.

14 There are a number of issues and assumptions that impact upon the figures. Settlement of rating appeals is one such issue that has challenged all councils (nationally) since the new system commenced. The modelling has been based largely on the first year

of the new funding stream and upon estimates for 2014/2015 and future years. A judgement will therefore need to be made on the latest available information in October 2014.

15 Agreement has been reached on the mechanism for distributing any surplus from the pool and managing any deficit. It should be noted that councils can only belong to one pool.

16 The pooling prospectus issued by DCLG makes it clear that a pooling application is unlikely to be approved merely on the basis that the pool will enable a greater level of business rates to be retained locally (to the detriment of the central pool). There will be a need for authorities therefore to agree a convincing narrative to support any pooling application, for example making a clear link between economic development strategy, investment and consequent growth in the business rate base. Lewes District Council could for example use the additional resource to support its own Local Business Rates Discount scheme.

17 In brief the financial case for pooling remains strong. The joint application will include a convincing narrative making a clear link between economic development strategy within East Sussex, investment and consequent growth in the business rate base. The additional funding being used simply as a substitute for existing spend is not considered a sufficient reason.

18 Agreement does need to be reached on a number of governance arrangements, namely:-

- Appointing a lead authority
- Supporting authorities that fall below the safety net
- Splitting the gains/losses from pooling
- Timetable and Authorisation
- Annual review

Each issue is addressed below

Appointing a Lead Authority

19 A lead authority will need to be named in the application. It has already been agreed that LG Futures will be contracted to advise the pool in 2015/16 (should an application be successful), and this will also provide a degree of objectivity and impartiality for all parties. The very limited costs being shared equally between the seven authorities.

20 Wealden DC has indicated that they would be prepared to undertake the role of lead authority.

Recommendation: Wealden District Council be nominated as the lead authority

Supporting Authorities that fall below the Safety Net

21 Currently if local authorities suffer significant reductions in the business rate tax base, a safety net is applied to restrict losses in any one year to 7.5% of a Council's baseline funding level.

22 Authorities need to jointly agree as a basic principle that no authority will receive a lower level of funding than they would have received without the pool i.e. than under the current DCLG scheme.

Recommendation: That the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool.

Splitting the Gains/Losses from Pooling

23 Should a pool not be formed, each District and Borough Council may end up paying a levy to the government based upon the level of business rate growth in their respective areas. The formation of the pool allows authorities to offset the levy payable against "Top up " authorities e.g. ESCC and the Fire authority.

24 LG Futures were asked to look at the forecast for future years based on the latest available information. They were also asked to look at the impact of a 5% increase and a 5% fall in business rates, as well as the impact of losing the highest and the second highest business rate payers within each District/Borough.

Table: Forecast levy payments by East Sussex districts 2013/14 to 2017/18 (extract from LG Futures report: Safety net proximity and 2013/14 NNDR3 statutory return data)

Local Authority	2015/16 £m	2016/17 £m	2017/18 £m
Eastbourne	0.445	0.601	0.622
Hastings	0.122	0.126	0.131
Lewes	0.460	0.475	0.492
Rother	0.277	0.353	0.436
Wealden	0.486	0.502	0.520
Overall	**1.790**	**2.057**	**2.201**

25 Options for splitting the gains/losses are outlined in the LG Futures report. In brief the option being recommended by the Chief Finance Officers of all the authorities is Option 1 (Para 3.13), namely to split resources based upon the levy amount that was saved by individual

authorities. The basis of the split is 40% ESCC, 10% Fire authority and 50% split amongst the remaining District and Borough Councils. The draft Memorandum of Understanding is included in the LG Futures report.

Table: Split of potential proceeds based on levy projections (as per above table)

Local Authority	2015/16 £m	2016/17 £m	2017/18 £m
Eastbourne	0.223	0.301	0.311
Hastings	0.061	0.063	0.066
Lewes	0.230	0.238	0.246
Rother	0.139	0.177	0.218
Wealden	0.243	0.251	0.260
East Sussex	0.716	0.823	0.880
East Sussex Fire	0.179	0.206	0.220
Overall	**1.790**	**2.057**	**2.201**

From the above table it can be seen that Lewes District Council would retain an additional £230,000 in 2015/16 that would otherwise be paid to central government as a levy.

26 This split is seen as the simplest and most transparent solution. It also has the following benefits:-

- requires minimal administration
- allows resources to be used in a timely manner/each local authority can determine its own reserve policy should a budgeted surplus actually result in a loss.
- still allows local authorities to combine resources for joint working and allows for match funding.
- would be more straight forward if the pool was dissolved or gained/lost members in the future.

In terms of sensitivity analysis, a 5% overall decrease in NDR income in 2015/16 reduces the pooling gains from £1.8m down to £0.6m. No authority would hit the safety net if NDR income was 5% lower than currently forecast. The gain from pooling from a 5% increase in NDR income in 2015/16 increases from £1.8m to £3.0m in 2015/16. If Eastbourne, Hastings and Lewes councils were to lose their highest business rate payers, they would each receive a payment under the safety net scheme. If Rother were to lose their highest ratepayer they would be between the safety net and the levy. If Wealden were to lose its highest business ratepayer it would still pay a small levy. The report considers that the risks to the pool of an overall loss from losing two of the highest rate payers for a region, without warning, and for a whole year, as unlikely.

Recommendation: To split resources gained on the basis of the levy amount that was saved by individual authorities. The basis of the split being 40% to ESCC, 10% to the Fire authority and the remaining 50% split amongst the district/borough Councils.

Timetable and Authorisation

27 A pooling application has to be made by the 31 October 2014. To this end each Council needs to gain the appropriate authorisations from their Executive/ Cabinet/Council.

28 The submission itself has to be authorised by the Chief Financial officer of each authority. The timescales for compilation and agreement of the submission and the assessment of the latest financial projections for respective councils (to be undertaken in September/early October 2014) remain challenging.

29 In addition once the Local government settlement is known in December 2014 there is a narrow window to decide whether to withdraw an application. For practicable purposes alone, it would appear to be sensible to delegate the finalisation of the submission and the decision on whether to submit and/or withdraw the application on financial grounds to the Chief Finance officer within each authority.

Recommendation: That the finalisation of the submission, agreement of the Memorandum of Understanding, and the final decision on whether to partake in the pool be delegated to respective Chief Finance Officers for the reasons outlined in the report.

Annual Review

30 Should the application be successful, the pool would continue to operate for a minimum of one year. Notice can be given annually. Should an individual local authority withdraw, the pool ends.

31 It is proposed that where it is not explicit within Financial Rules and Regulations or delegated authorities the Chief Finance Officer be required to review membership of the pool annually and be given the authority to withdraw from the pool where it is not financially advantageous to retain membership. Such decisions to be taken in consultation with the remaining authorities in the pool and at the earliest possible time, in order to allow for an alternative submission to be made.

Recommendation: Chief Finance Officers to review membership of the Pool on an annual basis. Should an authority decide to withdraw membership, notification of intent to do so to be given to the remaining authorities at the earliest

opportunity.

Risk Management

32 The key risk revolves around the reduction in the business rate taxbase. This could arise as a result of recession, companies closing down, or the level of rating appeals that are still outstanding resulting in larger than estimated reductions in rateable values. The report by LG futures considers that the risks to the pool of an overall loss from losing two of the highest rate payers for a region, without warning, and for a whole year, as unlikely. Likewise in terms of the economic picture, this is currently improving with growth being forecast in the economy as a whole.

33 The pooling arrangement is voluntary, and regular reviews will be undertaken to ensure continued viability.

34 The top nine rating assessments in the Lewes District Council area are shown below. The two largest assessments are extremely unlikely to come out of the list and a loss of significant rateable value is therefore a low risk in relation to the benefits that Lewes District Council will derive from membership of the pool.

Address	Description	Rateable value
PEACEHAVEN WASTEWATER TREATMENT WORKS, HOYLE ROAD, PEACEHAVEN, EAST SUSSEX, BN10 8AP	SEWAGE TREATMENT WORKS AND PREMISES	£2,460,000
ENERGY RECOVERY FACILITY, NORTH QUAY, NEWHAVEN, EAST SUSSEX, BN9 0AB	WASTE INCINERATOR AND PREMISES	£1,690,000
J SAINSBURY PLC, THE DROVE, NEWHAVEN, EAST SUSSEX, BN9 0AG	SUPERSTORE AND PREMISES	£1,520,000
TESCO, BROOKS ROAD, LEWES, EAST SUSSEX, BN7 2BY	SUPERSTORE & PREMISES	£1,350,000
COUNTY HALL, ST ANNES CRESCENT, LEWES, EAST SUSSEX, BN7 1SD	OFFICES AND PREMISES	£730,000
SUSSEX POLICE HEADQUARTERS, CHURCH LANE, LEWES, EAST SUSSEX, BN7 2HS	POLICE STATION AND PREMISES	£660,000
HM PRISON LEWES, BRIGHTON ROAD, LEWES, EAST SUSSEX, BN7 1EA	PRISON AND PREMISES	£585,000
MORRISONS, DANE ROAD, SEAFORD, EAST SUSSEX, BN25 1DL	SUPERSTORE AND PREMISES	£575,000
TRANSMANCHE LTD BERTH NO 1, NEWHAVEN HARBOUR, NEWHAVEN, EAST SUSSEX, BN9 0BG	FERRY TERMINAL & PREMISES	£500,000

Financial Implications

35 There are some very significant additional resources available as identified within the report. A pan East Sussex Pool is seen as ideal

given the potential use of some or all of the monies for economic development within the area.

36 The latest modelling indicates that Lewes District Council could receive an additional £230,000 in 2015/2016 from being a member of an East Sussex business rates pool.

37 Sustainability Implications

The sustainability implications of this policy have been assessed using the full sustainability impact assessment. No specific impacts were identified either positive or negative.

38 Legal Implications

National legislation governs the process for establishing and operating Business Rate Pools. The proposal in this report complies with the legislative framework.

39 Equality Screening

The Equality Screening process for this Report took place in September 2014. No potential negative impacts were identified.

40 Background Papers

41 LG Futures draft report - East Sussex & Pooling: Update, dated 13 June 2014

42 LG Futures, report dated 27 June 2014, providing updated finance projections and sensitivity analysis - East Sussex & Pooling: Safety net proximity and 2013/14 NNDR3 data

43 Business Rates Pooling prospectus for 2015/2016 https://www.gov.uk/government/publications/business-rates-retention-scheme-pooling

Appendices

Appendix A : Business Rates Retention Shares for 2014/2015.

APPENDIX A

Business Rates Retention shares and position for 2014/2015

	£m	%
The nationally set business rates income target for Lewes District Council was	**22.995**	
…and this is how it was allocated from April 2014		
The Government 50% share	**11.497**	
The tariff payment that LDC is required to pay to the Government each year (increases by rpi each year)	**7.201**	
Sub-total of the amount that went to the Government	**18.698**	**81**
East Sussex County Council retained Share	**2.070**	**9**
East Sussex Fire Authority retained Share	**0.230**	**1**
Lewes District Council retained share	**1.997**	**9**
Total	**22.995**	**100.0**

Note: the table above reflects the funding baseline target of £1.997m set for Lewes District Council. We have estimated £2.337m as the retained share for the year.

Amounts of additional business rates income above the starting position of £22.995m are shared out as follows under the new system:

	%
The Government basic share	**50.0**
The levy share that LDC is required to pay to the Government	**20.0**
Sub-total of the amount that went to the Government	**70.0**
East Sussex County Council retained Share	**9.0**
East Sussex Fire Authority retained Share	**1.0**
Lewes District Council retained share after paying its levy to the Government	**20.0**
Total	**100.0**

Footnote: Lewes District Council's notional share of additional business rates is 40%, but this reduces to 20% after accounting for the 50% levy that is payable back to the Government.

If the total of business rates income over time fails to go up by more than the cumulative rpi increase since April 2013 each year there will not be any "additional" increase in spending power from this revenue stream. In fact if the income stream declines the Council will still have to pay the rpi linked tariff payment to the Government each year.

Should the total of business rates income fall below £22.620m the Government will guarantee a baseline funding level of £1.848m to Lewes District Council. i.e. a safety net of 92.5% of the year's baseline funding total. Nationally, levy payments are designed to cover safety net payments to councils in this position.