

BODY: **CABINET**

DATE: **22nd October 2014**

SUBJECT: **Business Rate Pooling**

REPORT OF: **Chief Finance Officer**

Ward(s): All

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

Contact: Alan Osborne, Chief Finance Officer,
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Recommendations: Members are asked to:

To approve joining a Business Rate Pool with East Sussex County Council, other East Sussex Borough and District Councils and East Sussex Fire Authority, on the following terms:

- a) Wealden District Council be nominated as the lead authority,
- b) That the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool,
- c) To split the 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,
- d) 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.
- e) 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.

1. Introduction

- 1.1 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 business rates declines.
- 1.2 Under the scheme 50% of business rates is localised through a system of top-up

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 receives the remaining 50%.

1.3 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.

1.4 Where there is a 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.

2.0 Top ups and Tariffs

2.1 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. This if a local authority collects £20m in non-domestic rates and received £8m in formula grant it will pay a tariff of £12m.

2.2 The top-up 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 Eastbourne Borough Council's retained NDR income has kept ahead of inflation.

3.0 Levies and Safety Nets

3.1 The intention of the Rates Retention scheme is to give an incentive to local authorities to grow their business rate base, and the scheme has been devised to allow local authorities to benefit from this growth. However due to the gearing effect, i.e. the differences in the relationship between an individual authority's business rates base and its baseline funding level, some authorities with existing large tax bases in relation to their funding levels will experience increases in their income that is out of proportion to the growth in their business rate base. To moderate this gearing effect a system of levies and safety nets has been introduced.

3.2 The levy rate will allow authorities to retain their growth in an equivalent proportion to its baseline revenue. This translates into a real benefit and after the payment of the central share and the levy at least 20p in each extra pound will be retained locally.

3.3 Conversely a safety net will apply to any authority experiencing a decrease in their business rates revenue. This safety net guarantees authority's 92.5% of their original baseline funding. For the purpose of the safety net the baseline funding level will be increased by RPI each year.

4.0 Business Rate Pooling

4.1 Local authorities are free to come together to form pools for Non Domestic Rating (NDR) purposes. In such cases tariffs, top-ups, levies and safety nets can be combined. This can result in more money being retained locally to support

economic development objectives as the levy payments are no longer payable to the Government but retained by the pool.

- 4.2 To date on a national basis there are 18 pools, comprising 111 different authorities.
- 4.3 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 rates base.
- 4.4 The next opportunity for pooling is 2015/16, with a deadline for submission to the DCLG of 31 October 2014.

5.0. Pool proposal for East Sussex

- 5.1 A report on the potential for pooling in East Sussex was first consider by the Leaders and Chief Executives/Directors of respective Councils on 25 October 2013, with a subsequent report on the 25 April 2014 and more recently on the 25 July 2014 where all the Councils agreed unanimously that an application should be submitted on the basis of the arrangements and recommendations outlined in this report.
- 5.2 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 resources available over and above any gains from business rate growth within individual districts and boroughs that would arise without a pool.

- 5.3 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 the 18 authorities running a pool in the current financial year.
- 5.4 There are a number of issues and assumptions that impact upon the figures. Settlement of rating appeals is one such issue that has nationally challenged all councils 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 before the submission is made.

- 5.5 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.
- 5.6 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 rates base. The additional funding being used simply as a substitute for existing spend is not considered a sufficient reason.
- 5.7 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.

6.0 Appointing a Lead Authority

- 6.1 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.
- 6.2 Wealden District Council has indicated that it would be prepared to undertake the role of lead authority.
- 6.3 **Recommendation: Wealden District Council be nominated as the lead authority.**

7.0 Supporting the Authorities that fall below the Safety Net

- 7.1 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.
- 7.2 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.
- 7.3 **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.**

8.0 Splitting the Gains/Losses from Pooling

- 8.1 Should a pool not be formed, each District and Borough Council may end up paying a levy to the government based up 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.

8.2 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.

8.3 The forecast levy payments by East Sussex districts 2013/14 to 2017/18 are:

	2015/16	2016/17	2017/18
Local Authority	£m	£m	£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

(extract from LG Futures report: Safety net proximity and 2013/14 NNDR3 data)

8.4 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.

8.5 Split of potential proceeds based on levy projections are as follows:

	2015/16	2016/17	2017/18
Local Authority	£m	£m	£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 Eastbourne BC would retain an additional £223,000 in 2015/16 that would otherwise have been paid to central government as a levy.

8.6 The split is seen as the simplest and most transparent solution. It also has the following benefits:

- requires minimal administration,
- allows resources to be used to be used in a timely manner/each local authority can determine its own reserves 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.

8.7 In terms of sensitivity analysis, a 5% overall decreased 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, Hasting 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 the region, without warning, and for a whole year, as unlikely.

8.8 **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.**

9.0 Timetable and Authorisation

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

9.2 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 each respective councils (currently being undertaken) remain challenging.

9.3 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.

9.4 **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.**

10.0. Annual Review

10.1 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.

10.2 It is proposed that where it is not explicit with 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.

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

11.0 Risk Management

- 11.1 The key risk revolves around the reduction in the business rates 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.
- 11.2 The pooling arrangement is voluntary, and regular reviews will be undertaken to ensure continued viability.
- 11.3 The top five rating assessments in the Eastbourne Borough Council area are shown below. There are a number of appeals outstanding with a total Rateable value (RV) of £10m, of which £7m is represented by 3 of the properties below. The average success rate of settled appeals, based on information from the Valuation Office, against the 2010 rating list is 5.38%, if this average were to be applied against all the appeals outstanding as at 31.3.14 the total loss of rateable income for 2014/15 would be around £293,000

Full Property Address	Description	Current Rateable Value
Tesco Stores Ltd, Lottbridge Drove, Eastbourne, East Sussex, BN22 9PD	Superstore and Premises	2,660,000
J Sainsbury Plc, Broadwater Way, Eastbourne, East Sussex, BN23 8HW	Superstore and Premises	2,480,000
Asda Stores Ltd, Crumbles Harbour Village, Pevensey Bay Road, Eastbourne, East Sussex, BN23 6JH	Superstore and Premises	2,190,000
1, Hargreaves Road, Eastbourne, BN23 6QN	Superstore and Premises	2,010,000
Eastbourne District General Hospital, Kings Drive, Eastbourne, East Sussex, BN21 2UD	Hospital and Premises	1,330,000

- 11.4 A loss of significant rateable value is low risk in relation to the benefits that Eastbourne Borough Council will derive from membership of the pool.

12.0 Consultation

- 12.1 The proposals outlined in this report have been prepared in consultation with the other East Sussex Districts/Boroughs, ESCC and East Sussex Fire Authority. Each authority will be seeking appropriate authorisations from their Executive/Cabinet/Council.

13.0 Financial Implications

- 13.1 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.
- 13.2 The latest modelling indicates that Eastbourne Borough Council could receive and additional £223,000 in 2015/16 from being a member of an East Sussex business rates pool.

14.0 Conclusion

- 14.1 A pan Sussex business rates 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.

Alan Osborne
Chief Finance Officer

Background Papers:

The Background Papers used in compiling this report were as follows:

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

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

Business Rates Pooling prospectus for 2015/2016

<https://www.gov.uk/government/publications/business-rates-retention-scheme-pooling>

To inspect or obtain copies of background papers please refer to the contact officer listed above.