

Report of:	Meeting	Date	Item no.
Cllr Alan Vincent, Resources Portfolio Holder and Clare James, Head of Finance (S.151 Officer)	Council	24 September 2018	3

Lancashire Business Rates Pool: 75% Business Rates Retention Pilot

1. Purpose of report

- 1.1** To consider the benefits and risks of the Council applying to leave the current Lancashire wide pool with effect from the 2019/20 financial year, for one year, and joining a Lancashire wide 75% Business Rates Retention Pilot pooling arrangement.

2. Outcomes

- 2.1** The achievement of a negative levy rate which would ultimately result in there being no requirement to make a levy payment to Central Government.
- 2.2** The opportunity to retain an additional 25% of business rates growth in Lancashire.

3. Recommendations

- 3.1** That the Council formally agrees to join the Lancashire wide 75% Business Rates Retention Pilot pool with effect from the 2019/20 financial year, subject to the application to Central Government being successful and the arrangement being financially attractive for Wyre (to be determined by the Head of Finance/s.151 Officer).
- 3.2** That a designated Lead Authority will continue to act as administrator of the pool at a cost to be agreed but likely to be in the region of £2,000 per member (reflecting the current arrangement), which will be charged to all authorities participating in the pool at a flat rate.
- 3.3** That the first 5% of any additional growth will be used to create a new resilience reserve to mitigate against any extra loss arising from being a pilot member. If funds are remaining this will be used to further compensate individual councils facing a loss.
- 3.4** That a further 25% of the additional growth will be set aside to create a

Lancashire wide fund to be used to target strategic economic growth and sustainability. This investment fund will be allocated on the basis of unanimous decisions by members of the Lancashire Leaders Business Rates Pilot Group.

- 3.5 That the remaining retained growth will be apportioned according to the new tier splits i.e. Districts 56% (currently 40%); County Council 17.5% (currently 9%); unitaries 73.5% (currently 49%); fire 1.5% (currently 1%) to promote local economic growth and to enable the financial sustainability of pool members.
- 3.6 That responsibility for finalising the arrangements for the pilot are delegated to the Head of Finance (s.151 Officer) in consultation with the Resources Portfolio Holder.

4. Background

The position prior to creating the Lancashire Business Rates Pool

- 4.1 In the past, businesses paid their rates, which the local authority collected and passed over to the Treasury who then redistributed a share to local authorities via an extremely complex formula referred to as the 'Formula Grant Distribution System'. A new system, introduced from April 2013, allows the Council to keep a proportion of the money it collects in business rates although some authorities earn more in business rates than they used to receive from the previous formula grant with others earning much less.
- 4.2 To address this, the Government calculates a baseline funding level for each local authority and where they receive more in business rates the Government will pocket the difference (the 'tariff') and where local authorities receive less than their funding level this will be paid as a 'top-up'.
- 4.3 The Council is potentially allowed to keep 40% of any additional growth that it generates (with 50% being paid to the Government, 9% to Lancashire County Council (LCC) and 1% to the Fire Authority) but this is regulated to ensure that the council's increase in revenue is matched by a corresponding increase in its funding level i.e. if an authority grows its rates by 2% and its funding level growth is 4% then it will only get to keep 2% of that growth, with the excess being paid as a levy, although the maximum levy payable has now been set at 50p in the pound.

The creation of the Lancashire Business Rates Pool in 2016/17

- 4.4 At the Lancashire Chief Financial Officers meeting 30 January 2015 it was agreed to investigate the potential benefits of forming a business rate pool across Lancashire.
- 4.5 Using the 2015/16 Business Rate estimates (NNDR1 information) and including in the pool all of the Lancashire Districts who pay a 'tariff' and LCC, a 'top up' authority, resulted in a negative levy rate calculation meaning that no levy payment was due. In essence, it was determined

that what was previously a 50% levy rate for Wyre resulting in a payment to Central Government of £522,277 could be avoided and across Lancashire this equated to the retention of an estimated £4.9m in funding.

- 4.6** Based on the above analysis, an application was made to Central Government to establish a pool under paragraph 34 of Schedule 7B of the Local Government Finance Act 1988 and acceptance was published as part of the draft Local Government Finance Report. Authorities had the option to withdraw within 28 days of the draft publication (and this remains the case each year) but this would mean the collapse of the entire pool. As such, all authorities are asked to inform the Lead Authority by the end of August each year if they want to withdraw from the Pool. No such notification has been received for 2019/20.
- 4.7** The Lancashire Business Rates Pool is now in its third year and the retained growth in Lancashire in 2017/18 amounted to £6.01m, with Wyre benefitting by £419,554 (net retained levy). This is money that would otherwise have been paid to Central Government.
- 4.8** The membership of the current pool has changed over the three years with Fylde joining the pool in 2017/18 and Burnley leaving in 2017/18 and then re-joining in 2018/19.
- 4.9** Under the current pooling arrangement each authority bears its own risk, having given up the right to their individual safety net protection from central government and each retains their own growth, net of a 10% share of the retained levy which is paid to LCC.
- 4.10** The current safety net payment is set at 92.5% of the Baseline Funding Level and in effect means that Government will guarantee this minimum level of income across the pool as a whole. The element of the reduction in business rates that Wyre would have to meet before receiving any safety net payment in 2018/19 (if it applied) is £245,959 and it is therefore considered that the risk of Wyre operating at the safety net level is minimal.

5. Key issues and proposals

- 5.1** On the 24th July, Central Government issued a prospectus for 75% Business Rates Retention (BRR) Pilots (see Appendix 1). All applications must be received by midnight on Tuesday 25 September 2018. Both LCC and the current pool's Lead Authority undertook modelling based on the 2018/19 NNDR1 returns from all Lancashire authorities and their results were in line with each other (see Appendix 2).
- 5.2** The modelling showed that if a 75% BRR scheme existed across all of Lancashire then based on the 2018/19 figures, there was in the region of £10.8m of predicted growth that could be retained in the region either as an investment fund and/or to promote financial sustainability.
- 5.3** At the Lancashire Leaders and Chief Executives meeting on the 11th September, it was agreed that the Lancashire Chief Finance Officers Group would prepare a risks update and draft an outline application form

(see Appendix 2, 3 and 4). These documents were circulated on the 18th September and were based on all Lancashire Authorities joining the pilot.

- 5.4** Subsequent to the production of the report and draft bid, Lancaster City Council have formally withdrawn from the process owing to the significant risk represented by the nuclear power station at Heysham. They are not members of the current pool arrangement for the same reason and their absence from the bid is not expected to affect its viability as central government are aware of their exceptional circumstances from previous discussions on the current pool. Without Lancaster in the pool, the extra growth forecast reduces to just under £7.1m. At the time of writing this report, a number of authorities have indicated their willingness to proceed with the application. However, it is not confirmed that all other authorities are minded to support the process as each have their own approval process to undergo in a very short time frame.
- 5.5** Appendix 2 sets out the key issues and risks in detail and for that reason this report does not replicate them here. Many of the risks are already inherent within the current pooling arrangements. However it is important to note the following:
- The 2019/20 pilots will not benefit from the 'no detriment' clause enjoyed by existing 100% BRR pilots. Instead the safety net threshold for the entire pool would be raised from 92.5% to 95% to recognise the increased risk sharing.
 - Participating councils will also be exposed to a higher level of business rate risk for the duration of the pilot in 2019/20. There will be a higher share of any losses, arising as a result of appeals, bad debts and empty premises, being 75% rather than the current 50%.
 - The Safety Net threshold will only be activated by Central Government on a pool wide basis and is therefore unlikely to be triggered. As such each authority will bear its own risk over and above the 5% Resilience Fund created by the 25% additional growth only.
 - Should the application fail, the current pooling arrangements are our preferred alternative or 'fall-back' position. Central Government will take this into account but no absolute guarantee exists that this will happen and therefore there is a small risk that no pooling arrangements will exist in 2019/20 in Lancashire and we will have lost the current retained levy for at least one year.
 - Appendix 2 refers generally, as does the application, to the governance arrangements for the new pool. However, no document has been drawn up beyond basic principles being agreed between authorities. If the application is successful there is a risk that within the 28 day 'cool-off' period, agreement is not reached and an authority withdraws from the pilot. This would again result in no pooling arrangements in Lancashire 2019/20 and the loss of any retained levy for at least one year.
- 5.6** Authorities selected as pilots will be expected to forgo Revenue Support Grant (negative £33,000 in 2019/20 for Wyre and expected to be amended to nil following the Government's technical consultation) and Rural Services Delivery Grant (not applicable to Wyre). The value of

these grants will be taken into account when revised tariffs and top-up's for the pilot authorities are set up but the impact on Wyre and other participating authorities would be revenue neutral.

5.7 All authorities have been asked to agree the following next steps and seek formal approval to confirm the following:

- Existing Lancashire Pool members accept the risk to the current pool by submitting a bid.
- Pool pilot members understand the risks set out for the pool and their own councils.
- Pool pilot members are in support of the three stage approach to allocate the extra funding as set out in 3.3, 3.4 and 3.5 above and described in Appendix 2 at 8.4.

5.8 The new 75% pilot, if successful, would allow Lancashire authorities to influence the policy and approach taken by Central Government on any future national scheme. Having 2019/20 as essentially a transitional year would provide an opportunity to test and gather information on the design of the new business rate retention system in preparation for the anticipated national implementation of the new arrangements in 2020/21.

Financial and legal implications	
Finance	<p>Whilst it is impossible to project with any accuracy the 2019/20 financial position in terms of Business Rates Retention, the 2018/19 Business Rate estimates (NNDR1 information) reflect a net levy payment for Wyre of £680,133. The most recent update as at August 2018 continues to suggest that a levy payment will be due, although at a reduced level similar to 2017/18 and therefore it is considered financially beneficial to remain in a Lancashire wide pool or 75% BRR Pilot alternative. Any reduction in business rates income below the authority's baseline funding level must be repaid to the pool.</p> <p>Based on the 2018/19 NNDR1 modelling, there is the potential for £380,875 additional growth to remain in Wyre with our contribution to the resilience pot estimated to be £27,205 and £136,027 to the investment fund for use across Lancashire.</p> <p>A contribution of £2,000 or a similar amount would continue to be made to the Lead Authority.</p>
Legal	<p>The legal framework for the formation of a business rates pool is set out in paragraph 34 of Schedule 7B of the Local Government Finance Act 1988 (as inserted by schedule 1 to the Local Government Finance Act 2012). Each pool has to decide (and get approval from Government) on its governance arrangements. These cover, at the least:</p>

	<ul style="list-style-type: none"> • the rights and obligations of pool members, including • how money is to be disbursed to/between pool members and how payments to central government are to be funded by the lead authority • the treatment of pool balances and liabilities following the pool's dissolution.
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Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
data protection	x

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List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

- Appendix 1 – Invitation to Local Authorities in England to pilot 75% BRR in 2019/20
- Appendix 2 – Report to Lancashire Leaders/Chief Executives 18.09.2018
- Appendix 3 – Additional Business Rates Risk papers from Lancashire authorities received after Appendix 2 was published
- Appendix 4 – Draft Application for a 75% BRR Pilot (all Lancashire authorities)