

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF THE POLICY AND FINANCE COMMITTEE ON 9 DECEMBER 2021

SUBJECT: Business Rates Pooling

REPORT AUTHOR: Carolin Martlew, Interim Group Head of Corporate Support and s151 Officer

DATE: October 2021

EXTN: 37568

AREA: Corporate Support

EXECUTIVE SUMMARY: The report requests delegated authority for the Group Head of Corporate Support, in consultation with the Chair of this Committee, to enter into a business rate pool with selected other West Sussex authorities. The delegation is required to ensure agreement can be reached on membership, financial and governance arrangements for the pool and an application can be made to the Department for Levelling-Up, Housing and Communities (DLEH&C) by the required deadlines.

RECOMMENDATIONS:

It is recommended that the Committee:

- Agree to Arun participating in a business rates pool in West Sussex with effect from 1 April 2022; and
- Grants delegated authority to the Interim Group Head of Corporate Support, in consultation with the Chair of the Policy and Finance Committee, to agree the terms of a business rate pool for West Sussex for 2022/23.

1. BACKGROUND:

Members will be aware that the current system for dealing with income from business rates (the business rate retention scheme) came into effect from 1st April 2013. Under the business rates retention scheme, local authorities are able to keep a proportion of the business rates that they collect. However, the system remains extremely complex with tariffs, top-ups, 'safety nets' and levies.

The scheme recognised that the size of authorities' business rates bases was varied and that authorities have very different resource needs, depending on their functions and demography. The scheme therefore provides that, each year, some business rates income is transferred between local authorities by means of top-ups or tariffs. The amount of funding from the business rate retention scheme that any Council can expect to keep in any given year is known as 'baseline funding'.

Councils are annually given a target income level for business rates (Business Rates Baseline) of which 50% is paid to HM Treasury and 10% is paid to the County Council. Where the Council's share of "business rates baseline" exceeds the "baseline funding" they become "tariff" Councils and have to pay over the surplus business rates to the Government. Where the "business rates baseline" is less than the "baseline funding, then the Councils are "top up" authorities who receive additional funds from the Government. Arun is a tariff authority whilst the County Council is a top up authority.

The scheme provides a safety net for authorities who, in any year, see significant reductions in their income from the rates retention scheme. This is currently set at 7.5% of baseline funding which is the maximum income that could be lost if business rate income is expected to be below the business rate baseline. This is an important consideration as business rates income may decline as Central Government support is withdrawn following the COVID-19 pandemic.

Those Councils whose business rate income exceeds the 'baseline business rates' are entitled to keep a proportion of the surplus. This surplus is subject to a 'levy'. For Arun and most other Districts, this is set at 50%.

As part of the rates retention scheme, authorities can formally seek designation as a pool. This not only allows them to pool their resources under the scheme (which they could do anyway) and ensures they are treated as if they were a single entity for the purposes of calculating tariffs, top-ups, levies and safety net payments. There are several potential advantages to this approach:

- The pool may be financially better off than the individual Councils. The financial benefit occurs as the pool's levy rate is lower than the individual Councils' rates;
- The pool may be able to mitigate some of the risks associated with the system (such as local business relocating between Council areas);
- Pooling the rates income from growth across a wider and economically coherent area ensures that all authorities can benefit from economic growth across the wider area. This can mean that the strategic decisions that are needed about economic regeneration and infrastructure investment are easier to make.

The Council joined the West Sussex Business Rates Pool on 1 April 2015 and was a pool member until 31 March 2021. The pool was suspended for 2021/22 because of the financial risks to all the pool members arising from COVID-19.

An invitation has been received from the Department of Levelling Up, Housing and Communities (DLUHC) to re-introduce a pool for 2022/23 and this is considered below.

2. PROPOSAL(S):

DLUH&C has invited Councils to indicate preferred pooling arrangements for the financial year 2022-23. Proposals had to be received by DLUH&C by 8 October 2021 as it must make the necessary designations by the time of the 2022-23 provisional Local Government Finance Settlement. Unless designations are made by this date, a pool cannot be brought into existence for 2022-23. As the previous pool was dissolved on 31 March 2021, the West Sussex Councils will be forming a new pool.

As this is a new pool, the following information must be provided:

- Name of the lead authority;
- Full details of Membership;
- Arrangements for remaining pool balances in event of dissolution.

The principles of the previous pool remain appropriate:

- That no Council participating in the pool should be worse off as a result of being in the pool. Although this is the aim, it cannot be guaranteed as the no detriment principle has been removed;
- That the pool should facilitate better management of the risks associated with business rates;
- That the final membership of the pool should be drawn to enable the Councils within the County to maintain the maximum amount of business rates locally;
- That the membership of the pool should be based on an economically coherent area.

Rigorous governance arrangements should be in place for the pool. Agreement will be required on the use of any additional business rate income retained locally. A proportion of any additional income will be paid to the administering body to cover any administration costs, and the pool should build a contingency fund in case a surplus is not made by the pool and the safety net arrangements are triggered. Therefore, the details to be agreed are:

1. How much of a surplus should be held back to fund administration costs;
2. How much should be held back for a contingency fund; and
3. How should any remaining surplus be distributed.

Any financial gain will depend on the levy rate associated with the pool and this will be dependent upon which authorities make up the pool. As a result of this consideration could be given to a strategic fund being re-established, which can then be used to support county wide projects, particularly around economic growth linked to the Strategic Economic Plan, which benefits all Councils in West Sussex and not just those participating in the pool.

Both membership and governance arrangements are key to re-establishing a successful pool and given the time constraints, it is requested to grant delegated authority to the Group Head of Corporate Support, in consultation with the Chair of this Committee to finalise the agreement for the operation and governance arrangements for the pooling of business rates between local authorities in West Sussex for 2022/23.

West Sussex Finance Officers' Association (WSFOA) discussed this matter on 30 September 2021 and agreed in principle to recommence pooling from 1 April 2022, subject to Member approval and agreement of governance arrangements.

It is hoped that the provisional local government finance settlement for 2022/23 will be announced before this report is considered and it will be known if the application has been successful. Members will be verbally updated on this.

Financial Modelling has been undertaken on the pooling model to be pursued. This indicates that the most optimal pool would consist of:

- West Sussex County Council;
- Adur District Council;
- Arun District Council;
- Horsham District Council
- Mid-Sussex District Council.

This pool, assuming modelling is accurate, would produce business rates growth of £10.924m in West Sussex for 2022/23, resulting in a retained levy of £5.462m across the County.

3. OPTIONS:

To participate in the pool for 2022/23 subject to agreement being reached on arrangements; or

To opt not to participate in the pool for 2022/23.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain) Other West Sussex Councils	✓	

6. IMPLICATIONS:

The main implications arising are financial. It is expected that if a pool can be agreed and approved for 2022/23, that extra Business Rates income can be retained in the County than if there is not a pool.

There is a risk however, that if income declines, then participating Councils will receive less income if income is not realised. This is partly mitigated by a clause in the Memorandum of Understanding for the Pool that no Council will be worse off in the pool than what it would be if pooling were not in place. The modelling indicates this is not likely. However, it is important that all participating Councils enter into agreement aware of the potential risks of doing so. If agreement is not reached, the Council can withdraw.

7. REASON FOR THE DECISION:

To enter into a West Sussex Business Rates Pool for 2022/23 with the aim of realising additional retained Business Rates income in the County.

8. BACKGROUND PAPERS:

Invitation from DLUH&C to Councils to form a Business Rates Pool for 2022/23;
Report to Cabinet; 13 October 2014; Business rates Pooling.

Appendix

2022/23 Pool Modelling - based upon 2021/22 NNDR1								
Authority	Business Rates for purpose of safetynet/levy	Business Rates Growth (excludes authorities in safety net)	Business Rates for purpose of safetynet/levy	Business Rates Growth 20/21 Pool	Business Rates for purpose of safetynet/levy	Business Rates Growth Original Pool	Business Rates for purpose of safetynet/levy	Business Rates Growth Optimum Pool
Adur	8,146,619	1,253,712	8,146,619	1,253,712	8,146,619	1,253,712	8,146,619	1,253,712
Arun	16,876,583	4,165,085	16,876,583	4,165,085	16,876,583	4,165,085	16,876,583	4,165,085
Chichester	21,014,016	1,431,701	21,014,016		21,014,016	1,431,701	21,014,016	
Crawley	44,953,189	0	44,953,189		44,953,189		44,953,189	
Horsham	19,242,621	2,048,925	19,242,621	2,048,925	19,242,621		19,242,621	2,048,925
Mid Sussex	21,638,318	3,456,304	21,638,318		21,638,318		21,638,318	3,456,304
Worthing	14,035,918	1,115,379	14,035,918		14,035,918	1,115,379	14,035,918	
West Sussex								
	145,907,263	13,471,105	145,907,263	7,467,721	145,907,263	7,965,876	145,907,263	10,924,025
Pool:								
Baseline Funding (including WSCC)		93,831,547		86,744,818		89,637,138		88,887,090
Business Rates Baseline (including WSCC)		120,947,932		70,263,065		85,572,222		88,445,079
Pool levy percentage		22.42%		0.00%		0.00%		0.00%
Retained levy - all authorities with growth		not viable %>0		3,733,861		3,982,938		5,462,013