

CABINET

17 October 2023

Title: Urgent Action - Participation in a Business Rates Retention Pool with Thurrock and Havering Councils	
Report of the Chief Executive	
Open Report	For Information
Wards Affected: None	Key Decision: No
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Accountable Executive Team Director: Fiona Taylor, Chief Executive	
Summary: <p>The Council was recently approached regarding entering into a new Business Rates retention pooling arrangement with two other local authorities – Thurrock and the London Borough of Havering.</p> <p>Thurrock Council had commissioned LG Futures to find a pooling arrangement which would geographically make sense to DLUHC and have a financial benefit to the members of the pool based on current business rates forecasts. That work concluded that a proposed three-authority pool, involving Barking and Dagenham, Havering and Thurrock, would benefit all members. The benefit is derived from Thurrock’s current forecast of a £4m levy payable to Central Government. By entering into the pool, this levy would be retained and instead shared with the pool and split in the following ratio 50:25:25, with Thurrock (being the levy payer) retaining 50% of the gain and Barking & Dagenham and LB Havering each receiving a 25% share.. The financial benefit to Barking & Dagenham under current forecasted calculation would be c£1.0m.</p> <p>For any new proposed pooling arrangements to commence in 2024/25, applications needed to be made to the Department for Levelling Up, Housing and Communities (DLUHC) by 10 October 2023. It was noted, however, that there is a “cooling off” period of 28 days after the draft Local Government Financial Settlement for 2024/25 is announced, therefore giving the Council the opportunity to withdraw until mid-January 2024 should there be any concerns after the application has been made.</p> <p>As the commitment of each of the three Councils to a joint pooling arrangement was required by 10 October and the Cabinet was not meeting until 17 October, the Chief Executive agreed that it would be appropriate to approve the proposals under the Urgent Action provisions of Part 2, Chapter 16, paragraph 4 of the Constitution. It was also necessary to apply the Special Urgency arrangements as set out in Part 2, Chapter 17, paragraph 15 of the Constitution as the matter qualified as a ‘key decision’ and had not been publicised in advance on the Council’s Forward Plan in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England)</p>	

Regulations 2012. The detailed report which formed the basis of the Chief Executive's decision is set out at Appendix A to this report.

In line with the Urgent Action and Special Urgency provisions, the approval of the Chair of the Cabinet and the Chair of the Overview and Scrutiny Committee was received prior to the Chief Executive taking the action on 10 October and the matter is being reported to this meeting for information.

Recommendation(s)

The Cabinet is asked to note the action taken by the Chief Executive, in accordance with the Urgent Action procedures set out in Part 2, Chapter 16, paragraph 4 and the Special Urgency provision under Part 2, Chapter 17, paragraph 15 of the Council Constitution, in relation to:

- (i) Agreeing that the Council enters into the Memorandum of Understanding with Thurrock and Havering Councils, as set out in an appendix to the report, for the establishment of a three-borough Business Rates retention pool, and that the application be submitted to DLUHC by its deadline of 10 October 2023;
- (ii) Noting that the application does not commit the Council to the pool as there is a "cooling-off" period of 28 days from the announcement of the draft Local Government Financial Settlement for 2024/25 during which any of the parties can withdraw; and
- (iii) Delegating authority to the Strategic Director, Finance and Investment, in consultation with the Cabinet Member for Finance, Growth and Core Services, to make the final decision to enter the pooling arrangement in 2024/25 and subsequent years, prior to the expiry of the cooling off period, and to enter into all necessary or ancillary agreements to fully implement and effect the proposals.

Reasons

To accord with the requirements of the urgency procedures contained within the Council Constitution.

1. Financial Implications

Implications completed by: Nish Popat – Deputy S151 Officer

- 1.1 The Pooling arrangement will not materially impact on the Council in terms of its own Business Rates collection. The Pool will provide the Council with an added benefit should Thurrock's collection levels remain as indicated within this report.
- 1.2 The benefit for Barking and Dagenham will be applied from financial year 2024/25 onwards and the NNDR1, that will be completed in January 2024 will determine the projected benefit, with the final figures included within the Budget Setting for next year.

2. Legal Implications

Implications completed by: Dr Paul Feild, Principal Governance Lawyer

- 2.1 This report relates to an urgent action by the Chief Executive under the provisions of Part 2, Chapter 16, paragraph 4 of the Council Constitution so as to agree that the Council enters a Non-Domestic Rate Pooling Agreement with the London Borough of Havering and Thurrock Borough Council. Pooling arrangements have been used by the Council in the past and to good effect. As outlined above, there has been estimated a sizable benefit from participating in the pool. A Lead Authority will manage the pool, it being proposed to be Thurrock Council.
- 2.2 The foundation for the pool's operation by virtue of Schedule 7B part 9 of the Local Government Finance Act 1988. A memorandum of understanding with a commitment that none of Councils will be worse off from joining the pool and can opt out if it so chooses at a later stage providing appropriate notice is given. There will be a need to enter into legal agreements and this report seeks such delegated authority to the Strategic Director. All documentation will be reviewed in due course to ensure that they are in the Council's best interest. Going forward such arrangements will be kept under review and advice given as required.
- 2.3 With regard to the authorities of Havering and Thurrock's individual financial circumstances, while it is reported that Havering has contemplated the possibility of a notice being issued under section 114 Local Government Finance Act 1988, this would have no bearing on its capacity to enter a pooling arrangement. In the case of Thurrock Council, the Secretary of State has appointed a Commissioner under the Local Government Act 1999 to manage the financial affairs of that Council and they would need to agree to the arrangement.

Public Background Papers Used in the Preparation of the Report:

- Letter signed by the Chief Executive dated 9 October 2023 entitled "Urgent Action under Part 2, Chapter 16, paragraph 4 of the Constitution – Participation in a Business Rates Retention Pool with Thurrock and Havering Councils"
(<https://modgov.lbbd.gov.uk/Internet/ecCatDisplay.aspx?sch=doc&cat=14767>)

List of appendices:

- **Appendix A** - Report entitled "Participation in a Business Rates Retention Pool with Thurrock and Havering Councils"