

<b>Title:</b> Participation in a Business Rates Retention Pool with Thurrock and Havering Councils	
<b>Report of the Interim Strategic Director, Finance and Investment</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Nish Popat – Deputy S151 Officer	
<b>Accountable Executive Team Director:</b> Jo Moore, Interim Strategic Director, Finance and Investment (Section 151 Officer)	
<p><b>Summary</b></p> <p>The Council has very recently been approached regarding entering into a new Business Rates retention pooling arrangements with two other local authorities – Thurrock and the London Borough of Havering. The pooling arrangement would start in 2024/25 and is projected to have a financial benefit to the three authorities whilst also aligning with existing relationships developed through the Thames Freeport.</p> <p>For any new proposed pooling arrangements, applications need to be made to the Department for Levelling Up, Housing and Communities (DLUHC) by 10 October 2023. However, there is a “cooling off” period of 28 days after the draft Local Government Financial Settlement has been 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>Thurrock Council 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. LG Futures are also Barking &amp; Dagenham’s financial advisors. This work has concluded that the proposed three-authority pool above would benefit all members.</p> <p>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 Barking &amp; Dagenham and LB Havering expected to each receive a 25% share. The rationale for the split is that the pool requires a Tariff Authority who collects the business rates and, for this pool, that would be Thurrock (being the levy payer). Under the proposals, the Tariff Authority retains 50% of the gain. The financial benefit to Barking &amp; Dagenham under current forecasted calculation would be c£1.0m.</p> <p>There is a risk in that if Thurrock were not to collect the forecast level of business rates, this would reduce the levy payable and the share available to pool members. LG Futures</p>	

has advised that this is low risk and, if anything, the gain is likely to be higher. To put into context, Thurrock has paid a levy of between £1.8m and £6.0m every year for the past five years and are on course to pay a £4.0m levy in 2023/24 (figures supplied by LG Futures). Therefore, even if Thurrock was to have its worst year in six years and only have a levy due of £1.8m, Barking and Dagenham would still receive £0.450m.

### **Recommendation(s)**

The Cabinet is recommended to:

- (i) Agree that the Council enters into the Memorandum of Understanding with Thurrock and Havering Councils, as set out at Appendix 1 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) Note 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) Delegate 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.

### **Reason(s)**

To improve the financial benefit to the Council through an additional sharing of the gain within the Pooling arrangement, providing additional resources to support the Council's budgetary position and bring more resources for Council services.

## **1. Introduction and Background**

1.1 On 5 September 2023, the DLUHC Business Rates Operations and Local Government Finance Settlement Teams wrote to local authorities to invite them to pool business rates for 2024/25. The email included a formal letter, and a template Memorandum of Understanding to be used. To set up and operate a pool, the following activities are required:

- By 10 October 2023 – Agree Pool Members, Lead Authority and Projected Financial Outcomes
- Late December – Draft Local Government Financial Settlement includes approved pooling applications including a memorandum of understanding signed by the s151 officers of the three local authorities.
- 28 days from issue of Draft Local Government Financial Settlement – opportunity for pool members to further consider membership of pool.
- Late Jan/Early Feb – Final Local Government Financial Settlement – full confirmation of pooling arrangement followed by requirement to complete NNDR1 form.

- 2024/25 Financial Year – Collect Business Rates and Monitor in-year position.
- Post 2024/25 financial year – complete NNDR 3 confirming final pooling position.

1.2 The Council previously participated in pooling arrangements with Basildon, Havering and Thurrock Councils from 2014/15 and as part of a London-wide group from 2018/19.

## 2. Proposal and Issues

2.1 As referred to, responding to the DLUHC invitation does not commit authorities to pooling. Following the draft Local Government Financial Settlement, authorities have 28 days to decide whether to go ahead with a pool (though it is “all or nothing” at this stage, so if one member drops out, the pool does not operate). This is an annual process for which an expression of interest is required to enter a pooling arrangement for the following financial year.

2.2 It is important to note that aside from receiving the pooling gains, Barking and Dagenham’s roles would be as per the current arrangements. It would collect its own business rates and receive its Top Up grant and use these to fund its own expenditure.

### Pool projections

2.3 The table below sets out the current forecast 2024/25 pooling gain using the 2023/24 NNDR1 data, the final Tariff / top up changes (following Revaluation 2023) and assuming no inflation on the multiplier (**Note** this is an initial projection under assessment and may change further). For example, no inflation has been factored into the figures yet and may have an impact on the final calculations. However, adding inflation is likely to increase the income to Thurrock and therefore increase the levy, which in turn would result in improved share to the Pool members.

2.4 It used an approach like other pools where the tariff authority retains half of the gain, and the top up authorities retain the other half. This is based on Thurrock providing 100% of the Tariff and the two authorities providing the 100% Top-up offset (so split between the two). The split between the top up authorities has been split by equal share and this mirrors other pooling arrangements and reflects, not just the financial contributions of each, but also the enabling of the continuous geography. It currently projects a forecast pooling gain of £4.0m split across the three authorities.

Local Authority	Business Rates Income £m	Plus Top Up / (Tariff) £m	Equals £m	Plus Safety Net / (Levy) £m	Equals £m	Plus Pooling Gains £m	Total £m
Thurrock	69.8	(25.9)	43.9	(4.0)	39.8	2.021	41.8
Havering	29.9	8.7	38.6	-	38.6	1.010	39.6
Barking & Dagenham	25.1	36.8	61.8	-	61.8	1.010	62.8
<b>Total</b>	<b>124.7</b>	<b>19.6</b>	<b>144.3</b>	<b>(4.0)</b>	<b>140.2</b>	<b>4.041</b>	<b>144.3</b>

2.5 The table below shows:

- The total forecast business rates income plus Section 31 grant for each authority (based on NNDR1 data)
- The reduction in cash terms and as a percentage, that would be required for each authority to individually require a safety net payment of £0.1m.
- To put this percentage for Thurrock into context, over the lifetime of the scheme (10 years), the average annual change in business rates for Thurrock is +10%, with only one year seeing a reduction (of 5% in 2019/20). So even if it had a year comparable with its worst year in the past 10 years, Barking and Dagenham would still stand to gain £0.750m.

Local Authority	Business Rates Income + S31 Grant £m	Reduction Needed £m	% Reduction £m
Thurrock	148.6	30.8	21%
Havering	99.5	18.4	19%
Barking & Dagenham	83.6	21.9	26%

(Note: the safety net payment is required when business rates income fall below the business rates baseline by more than 7.5%)

2.6 The figures reflect that each of the authorities are materially above their NNDR Baseline and therefore the safety net. This means that the possibility of falling into a situation of a safety net payment is considered to be very low risk.

### Pool administration

2.7 Pool members will require assurance that the pool is being managed for the benefit of all members and to ensure financial risks are monitored and managed appropriately. Thurrock Council has appointed LG Futures to provide this expertise and support the expression of interest to members. It is noted that, should the pool not progress, there will be no costs arising to the pool members. Should the pool progress further then the fee is contingent on there being a financial gain to the pool and will be split in proportion to the sharing of the gain.

2.8 Based on the projections included in this note, the expected fees would be circa c3% of the total gain to Barking and Dagenham.

### 3. Options Appraisal

3.1 The alternative option is not to enter into the new pooling arrangement. However, this would mean that the Council would lose the opportunity for an additional £1m of business rates income compared to the risk of entering into the pool and is, therefore, not recommended.

- 3.2 Using the NNDR1 data, there is a strong case for a business rates pool in 2024/25, with a significant forecast pooling gain of £4.0m.
- 3.3 All pooling members are forecasting to be materially above the safety net. Provisional agreement is required (with Delta submissions by each authority) before the pooling deadline of 10 October 2023.
- 3.4 Each of the pool members will have the ability to pull out of the arrangement (and end the pool) up to 28 days after the provisional local government finance settlement (so mid-January 2024).
- 3.5 Whilst there are risks to the Council, as the Pooling gains are dependent on Thurrock's Business Rates position, the risk of materialisation are very low. The business rates would need to fall by 21% for there to be no gain to the pool. However, if the business rates were to reduce by 25% would lead to £200k charge.

#### **4. Consultation**

- 4.1 This report has been drafted in consultation with the Chief Executives, Monitoring Officers and Section 151 Leads at the respective authorities.

#### **5. Financial Implications**

Implications completed by: Nish Popat – Deputy S151 Officer

- 5.1 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.
- 5.2 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.

#### **6. Legal Implications**

Implications completed by: Dr Paul Feild, Principal Governance Lawyer

- 6.1 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.
- 6.2 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.

6.3 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.

## **7. Other Implications**

7.1 **Risk Management** - There is a risk in that if Thurrock were not to collect the forecast level of business rates, this would reduce the levy payable and the share available to pool members. LG Futures has advised that this is low risk and, if anything, the gain is likely to be higher.

**Public Background Papers Used in the Preparation of the Report: None**

### **List of appendices:**

**Appendix 1 – Draft Memorandum of Understanding**