

## CABINET

22 October 2013

<b>Title:</b> Business Rates Pooling Opportunity	
<b>Report of the Cabinet Member for Finance</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
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<b>Accountable Director:</b> Jonathan Bunt, Chief Finance Officer	
<b>Summary</b> <p>This report seeks Cabinet approval for the Council to enter into a business rates pool with the London Borough of Havering, Thurrock Council and Basildon District Council.</p> <p>The arrangement is estimated to retain the pool an additional £13.2 million in business rates over the next 4 years that would be distributed between its members.</p> <p>Local authorities are required to submit their pooling application for 2014/15 to the Department for Communities and Local Government (CLG) by 31 October 2013. Thurrock Council has been nominated as the Lead Authority for the pool.</p>	
<b>Recommendation(s)</b> <p>The Cabinet is recommended to agree:</p> <ul style="list-style-type: none"><li>(i) The creation of a business rates pool with the London Borough of Havering, Thurrock Council and Basildon District Council from 1 April 2014;</li><li>(ii) To delegate authority to the Chief Finance Officer, in consultation with the Cabinet Member for Finance, to agree the operational details of the pooling arrangements with the participating councils; and</li><li>(iii) To authorise the Chief Finance Officer, in consultation with the Head of Legal and Democratic Services, to make any amendments to the draft Memorandum of Understanding attached at Appendix A to the report as may be required by the Secretary of State, and to enter into the final Memorandum of Understanding on behalf of the Council.</li></ul>	
<b>Reason(s)</b> <p>The proposals would support the Council's overall vision to 'Encourage growth and unlock the potential of Barking and Dagenham and its residents' specifically contributing to the priority to 'Maximise growth opportunities' and the theme 'a well-run organisation'.</p>	

## 1. Introduction and Background

- 1.1 Following the localisation of business rates, Central Government has given authorities the option to pool their business bases and be treated as one authority for the purpose of any levy calculation.
- 1.2 The levy payment is relative to the size of an authority's business base and certain authorities can pool and reduce the levy payment that would otherwise go to Central Government. For some authorities the levy rate is calculated to be zero.
- 1.3 A levy is only raised on rates retained above an authority's baseline. The baseline represents the rates central government expects the authority to retain if there was no economic growth and is based on past performance.
- 1.4 This report considers the potential benefits and risks of a pool between Barking and Dagenham to form a pool with Thurrock Council, London Borough of Havering and Basildon District Council.
- 1.5 Proposals for new pools must be submitted to CLG by 31 October 2013.

## 2. Pooling Opportunity

- 2.1 There are currently thirteen pools nationally, comprising of ninety different authorities. Based on forecast data, those authorities are projected to keep £17m more of their growth at local level than they would otherwise have done.
- 2.2 The act of setting up pools can help further the process of joint working and could result in wider benefits and collaboration over service delivery.
- 2.3 A review by LG Futures of potential pooling opportunities between authorities near the Borough has been undertaken. This identified benefits to the Council of pooling with the London Borough of Havering, Thurrock Council and Basildon District Council.
- 2.4 The individual levy rates for these authorities and the combined rate is shown in the table below.

Local Authority	Levy
London Borough of Barking & Dagenham	0.0%
Basildon District Council	50.0%
London Borough of Havering	0.0%
Thurrock Council	44.0%
<b>Total</b>	<b>4.2%</b>

- 2.5 Barking and Dagenham and Havering are both Top-up authorities. This means both councils collect less business rates than their baseline level of need. Barking and Dagenham currently retain rates of £16.7m and receive a top up from Central Government of £33.7m.

- 2.6 Thurrock and Basildon are both tariff authorities. This means both councils collect more rates than their baseline level of need. A levy is charged on the tariff authorities on any growth generated.
- 2.7 By creating a pool, the levy for Basildon and Thurrock would be significantly reduced and the benefits would be distributed to all members of the pool.
- 2.8 Projections show that the pool would generate £13.2 million more over the next four years than the authorities would receive individually. This and the other four most beneficial combinations of the authorities are shown in the table below. These projections are based on estimated growth rates submitted by each council.
- 2.9 There are several possible methods for sharing the potential growth. This is still subject to discussion by officers. Possible approaches include allocating the growth:
- In proportion to the Needs Baseline, determined by local need;
  - In proportion to the NDR Baseline, determined by each authority's contribution to the pool;
  - In proportion to the councils who have contributed to the growth;
  - In proportion to the councils who have contributed to the reduction of the levy;
  - Using a combination of the factors above.

<b>Combination</b>	<b>2014/15 £m</b>	<b>2015/16 £m</b>	<b>2016/17 £m</b>	<b>2017/18 £m</b>	<b>Total £m</b>
BD, B, H, T	1.7	2.4	4.3	4.8	<b>13.2</b>
BD, H, T	1.2	1.9	4.0	4.6	<b>11.7</b>
BD, T	1.2	1.9	4.0	4.6	<b>11.7</b>
BD, B, T	1.2	1.6	3.0	3.5	<b>9.3</b>
H, T	0.7	1.1	2.3	2.6	<b>6.7</b>

BD = Barking & Dagenham, B = Basildon, H = Havering, T = Thurrock

- 2.10 Before agreeing to a new pool, CLG will need assurance that governance arrangements are in place, detailing the rights/obligations of pool members and how the money will be disbursed between pool members. A copy of the draft Memorandum of Understanding which sets out the governance arrangements is attached in **Appendix A**. Final proposals will need to be signed off by the Section 151 officers of each authority in the pool.
- 2.11 Local authorities are required to submit their pooling application for 2014/15 to Communities and Local Government (CLG) by 31 October 2013. For this application a Lead Authority must be identified through which all business rates payments with CLG will be channelled. Thurrock Council has been nominated as the Lead Authority for the pool. Administration costs associated with running the pool are expected to be minimal and will be financed through growth from the pool.
- 2.12 A model form of Pooling Agreement has been established which is attached in Appendix A. This may need further amendment following feedback from the Secretary of State once he has considered the joint pooling proposal.

### **3. Pooling Risk**

- 3.1 Although the pool will be established on the basis that no authority should be worse off by pooling there are scenarios under which this would be unavoidable.
- 3.2 This would require both Basildon and Thurrock to achieve no growth in rates above their baseline and for Barking and Dagenham to see an increase in rates above its baseline. Individually Barking and Dagenham doesn't pay a levy on any growth, but as a pool the levy would be 4.2%. Another principle of the pool is that Barking and Dagenham and Havering will be compensated for the 4.2% levy on any growth.
- 3.3 Based on the modelling undertaken by LG Futures, the scope for growth in Basildon and Thurrock and the improving economic climate it is unlikely this scenario would occur. However the Council has the opportunity to leave the pool in future years should it become in its interests to do so.
- 3.4 Local authorities can also withdraw from a designated pool before the pool comes into effect, if after seeing the Local Government Finance Report they no longer believe that pooling provides the opportunities previously expected. The withdrawal must be notified to the CLG within 28 days of the publication of the draft.

### **4. Options Appraisal**

- 4.1 London Councils has investigated the option of creating a London wide business rates pool. The conclusion was that the pool would not be financially beneficial and London Boroughs would need to consider other pooling opportunities.
- 4.2 A pool with Newham, Redbridge and Tower Hamlets has not been considered as all authorities, including Barking and Dagenham, are top-up authorities and have a levy rate of zero. Therefore pooling would not retain additional rates through reduced levy payments as none of the authorities are subject to a levy. Pools require at least one top-up authority to be feasible.
- 4.3 In deciding whether to designate a pool or not, CLG will have regard to the likely benefits for the Government's wider objectives for growth and the promotion of strategic and service integration. As such CLG generally expects pools to have continuous boundaries. This is why a pool with Basildon, Havering and Thurrock is the only viable option rather than a combination of just one or two of these authorities.
- 4.4 Currently there are no other pooling opportunities to consider but the Council is free to switch to another pool in the future if it is deemed more beneficial.

### **5. Financial Implications**

- 5.1 Financial implications have been considered throughout the report.

## **6. Legal Implications**

Implications completed by: Paul Feild, Senior Governance Lawyer

- 6.1 Pools are established under paragraph 34 of Schedule 7B to the Local Government Finance Act 1988 (as inserted by Schedule 1 to the Local Government Finance Act 2012). The Secretary of State has advised the Department of Communities and Local Government will consider all applications for designation received by 31 October 2013. In deciding whether to designate a pool or not, the Department will have regard to the:
- the likely benefits of the proposals for local authorities and the Government's wider objectives for growth, and improved strategic and service delivery;
  - the proposed governance arrangements; and
  - the extent to which proposals are affordable in terms of the rates retention scheme as a whole.
- 6.2 However the Secretary of State reserves the right, in such exceptional circumstances, to consider factors such as the overall affordability of the rates retention scheme in deciding to designate a pool. In making the proposal to the Secretary of State he will examine the proposals to ensure there is a strong, clear rationale for the proposed pool. The Guidance has indicated a preferred joining up of geographic coverage of the pool so the proposal set out in this report would appear to accord with the preferred form of application though the onus will be on the authorities to produce a strong rationale to support the proposal.
- 6.3 In designating a pool for 2014-15, the Department will attach conditions to the designation in accordance with paragraph 35(1) of Schedule 7B to the Local Government Finance Act 1988, appointing a lead authority and requiring the authority to take the steps set out in its application in the event that the pool is dissolved. It also reserves the right to attach such other conditions as it sees fit, in accordance with paragraph 35(2) of Schedule 7B. If the Department attaches conditions these are likely to be around the publication of information by the lead authority in the interests of transparency.
- 6.4 The arrangement, if approved by the Secretary of State, will need to be established between the parties with clear governance documentation setting out responsibilities. The lead borough is proposed to be Thurrock Borough Council.
- 6.5 Final proposals will need to be signed off by the s.151 Chief Finance Officers of each authority in the pool. As it is possible that the Secretary of State may require amendments before approval it is recommended that the power to agree the final form and terms of the proposal and agreement is delegated to the Chief Finance Officer in consultation with the Head of Legal and Democratic Services.
- 6.6 The decision to commit to the proposed pooling is a major decision as once it is made while the Secretary of State will agree to revoke the Pool Scheme if any member authority of the pool requests it will only come into effect for the following financial year.

## **Background Papers Used in the Preparation of the Report**

Business rates retention scheme: pooling prospectus

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

**List of Appendices:**

- **Appendix A - Draft Memorandum of Understanding**