Agenda Item No: **6**

Report to: Cabinet

Date of Meeting: 1 September 2014

Report Title: Business Rate Pooling

Report By: Peter Grace
Head of Finance

Purpose of Report

To agree to enter into a Business Rates Pool. An application to be submitted on behalf of the East Sussex County, Borough, and District Councils and the Sussex Fire Authority in October 2014, subject to it being financially advantageous to do so after a further financial review in September 2014.

Recommendations

1. **Wealden District Council be nominated as the lead authority**

2. **That the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool.**

3. **To split resources gained on the basis of the levy amount that was saved by individual authorities. The basis of the split being 40% to ESCC, 10% to the Fire authority and the remaining 50% split amongst the District/Borough Councils.**

4. **That the finalisation of the submission, agreement of the Memorandum of Understanding, and the final decision on whether to partake in the pool, along with the annual review, is delegated to respective Chief Finance Officers for the reasons outlined in the report.**

5. **Chief Finance Officers to review membership of the Pool on an annual basis. Should an authority decide to withdraw membership, notification of intent to do so to be given to the remaining authorities at the earliest opportunity.**

Reasons for Recommendations

Local authorities are free to come together to form pools for NDR purposes. In such cases tariffs and top-ups can be combined – and this can result in lower payments being made to the government. Authorities within such arrangements need to agree how risks and benefits are shared. A pooling arrangement could result in additional resources being retained within East Sussex. The estimates identify sums of £1.8m in 2015/16, £2m in 2016/17 and £2.2m in 2017/18 which would be shared between authorities and used for economic development purposes.

Introduction

1. A new funding regime was introduced on 1 April 2013 whereby local authorities effectively retain a proportion of any additional business rate income collected (above inflation) or conversely will experience a reduction in resources if the business rate base declines.

2. Under the scheme 50% of business rates is localised through a system of top-ups and tariffs that fix an amount to be paid by high yield authorities and distributed to low yield authorities – this amount being increased annually by inflation (RPI). The proportion retained by individual collection authorities in East Sussex is 40%, 9% is payable to East Sussex County Council, and 1% to Fire and Rescue authority (the government receive 50%).

3. The 50% central government share is distributed through the formula grant process (now termed Settlement Funding Assessment) – thus enabling the government to control the overall amount received by local authorities. Where there is disproportionate growth this will be used to provide a safety net for those authorities experiencing little or negative growth and allows the treasury to top slice business rates income. A reset mechanism will be in place with the first reset in 2020 and periods of 10 years between resets thereafter.

4. To date on a national basis there are 18 pools, comprising 111 different authorities.

Top ups and Tariffs

5. These are set that, all things being equal, an authority will have started with the same resources under the new system as it had under the old. Thus if a local authority collects £20m in non domestic rates and received £8m in formula grant it will pay a tariff of £12m.

6. The top ups and tariffs will automatically be updated for inflation. This gives top-up authorities e.g. East Sussex County Council, a guaranteed increase in part of their resources and means a tariff authority, such as Hastings BC will lose resources unless it ensures its NNDR growth at least keeps pace with inflation.

The Levy

7. For each 1% increase in the business rates base, the authority will see no more than a 1% increase in income as measured against its spending baseline, i.e. a 5% increase in non domestic rates would give a 5% increase in retained NNDR.

Pooling

8. A report on the potential for pooling in East Sussex was first considered by the Leaders and Chief Executives/Directors of respective Councils on the 25 October 2013, with a subsequent report on the 25 April 2014 and more recently on the 25 July 2014 where all Councils agreed unanimously that an application should be submitted on the basis of the arrangements and recommendations outlined in this report.

9. A company called LG Futures has been employed to collate and advise on the financial viability of the scheme, modelling some of the risks and identifying appropriate governance arrangements. LG futures will also help draft and coordinate the submission of an application on behalf of the seven authorities.

10. The next opportunity for pooling is 2015/16, with a deadline for submissions to the DCLG of 31 October 2014.

11. The issues are however complex and the financial figures and assumptions upon which the assessments are based are largely on the first year of a new funding stream and estimates for future years which contain uncertainties. A judgement will therefore be made in September 2014 when more data is available and more rating appeals have been settled.

12. Agreement has been reached on the mechanism for distributing any surplus from the pool and managing any deficit. It should be noted that Members can only belong to one pool.

13. The pooling prospectus issued by DCLG makes it clear that a pooling application is unlikely to be approved merely on the basis that the pool will enable a greater level of business rates to be retained locally (to the detriment of the central pool). There will be a need for authorities therefore to agree a convincing narrative to support any pooling application, for example making a clear link between economic development strategy, investment and consequent growth in the business rate base.

14. In brief the financial case for pooling remains strong. The joint application will include a convincing narrative making a clear link between economic development strategy within East Sussex, investment and consequent growth in the business rate base. The additional funding being used simply as a substitute for existing spend is not considered a sufficient reason.

15. Agreement does need to be reached on a number of governance arrangements, namely:-
    (i) Appointing a lead authority
    (ii) Supporting authorities that fall below the safety net
    (iii) Splitting the gains/losses from pooling
    (iv) Timetable and Authorisation
    (v) Annual review

Appointing a Lead Authority

16. A lead authority will need to be named in the application. It has already been agreed that LG Futures will be contracted to advise the pool in 2015/16 (should an application be successful), and this will also provide a degree of objectivity and impartiality for all parties. The very limited costs being shared equally between the seven authorities.

17. Wealden DC has indicated that they would be prepared to undertake the role of lead authority.

Recommendation: Wealden District Council be nominated as the lead authority

Supporting Authorities that fall below the Safety Net

18. Currently if local authorities suffer significant reductions in the business rate tax base, a safety net is applied to restrict losses in any one year to 7.5% of a Council's baseline funding level.

19. Authorities need to jointly agree as a basic principle that no authority will receive a lower level of funding than they would have received without the pool i.e. than under the current DCLG scheme.

    Recommendation: That the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool.

Splitting the Gains/Losses from Pooling

20. Should a pool not be formed, each District and Borough Council may end up paying a levy to the government based upon the level of business rate growth in their respective areas. The formation of the pool allows authorities to offset the levy payable against "Top up " authorities e.g. ESCC and the Fire authority.

21. LG Futures were asked to look at the forecast for future years based on the latest available information. They were also asked to look at the impact of a 5% increase and a 5% fall in business rates, as well as the impact of losing the highest and the second highest business rate payers within each District/Borough.

Table: Forecast levy payments by East Sussex districts 2013/14 to 2017/18 (extract from LG Futures report: Safety net proximity and 2013/14 NNDR3 data)

Local Authority	2015/16 £m	2016/17 £m	2017/18 £m
Eastbourne	0.445	0.601	0.622
Hastings	0.122	0.126	0.131
Lewes	0.460	0.475	0.492
Rother	0.277	0.353	0.436
Wealden	0.486	0.502	0.520
Overall	**1.790**	**2.057**	**2.201**

22. Options for splitting the gains/losses are outlined in the LG Futures report. In brief the option being recommended by the Chief Finance Officers of all the authorities is Option 1 (Para 3.13), namely to split resources based upon the levy amount that was saved by individual authorities. The basis of the split is 40% ESCC, 10% Fire authority and 50% split amongst the remaining District and Borough Councils. The draft Memorandum of Understanding is included in the LG Futures report.

Table: Split of potential proceeds based on levy projections (as per above table)

Local Authority	2015/16 £m	2016/17 £m	2017/18 £m
Eastbourne	0.223	0.301	0.311
Hastings	0.061	0.063	0.066
Lewes	0.230	0.238	0.246
Rother	0.139	0.177	0.218
Wealden	0.243	0.251	0.260
East Sussex	0.716	0.823	0.880
East Sussex Fire	0.179	0.206	0.220
Overall	**1.790**	**2.057**	**2.201**

From the above table it can be seen that Hastings BC would retain an additional £61,000 in 2015/16 that would otherwise have been paid to central government as a levy.

23. This split is seen as the simplest and most transparent solution. It also has the following benefits:-
(i) requires less administration
(ii) allows resources to be used in a timely manner/each local authority can determine its own reserve policy should a budgeted surplus actually result in a loss.
(iii) still allows local authorities to combine resources for joint working and allows for match funding.
(iv) would be more straight forward if the pool was dissolved or gained/lost members in the future.

24. In terms of sensitivity analysis, the gain from pooling resulting from a 5% decrease in NDR income in 2015/16 reduces from £1.8m to £0.6m. No authority would hit the safety net if NDR income was 5% lower than currently forecast. The gain from pooling from a 5% increase in NDR income in 2015/16 increases from £1.8m to £3.0m in 2015/16. If Eastbourne, Hastings and Lewes were to lose their highest business rate payers, they would each receive a payment under the safety net scheme. If Rother were to lose their highest ratepayer they would be between the safety net and the levy. If Wealden were to lose its highest business ratepayer it would still pay a small levy. The report considers that the risks to the pool of an overall loss from losing two of the highest rate payers for a region, without warning, and for a whole year, as unlikely.

Recommendation: To split resources gained on the basis of the levy amount that was saved by individual authorities. The basis of the split being 40% to ESCC, 10% to the Fire authority and the remaining 50% split amongst the district/borough Councils.

Timetable and Authorisation

25. An application has to be made by October 2014. To this end each Council needs to gain the appropriate authorisations from their Executive/ Cabinet/Council.

26. The submission itself has to be authorised by the Chief Financial officer of each authority. The timescales for compilation and agreement of the submission and the assessment of the latest financial projections for respective councils (to be undertaken in September 2014) remain challenging. In addition there is only a narrow window to decide whether to withdraw an application once the Local government settlement is known in December 2014. For practicable purposes alone, it would appear to be sensible to delegate the finalisation of the submission and the decision on whether to submit and/or withdraw the application on financial grounds to the Chief Finance officer within each authority.

Recommendation: That the finalisation of the submission, agreement of the Memorandum of Understanding, and the final decision on whether to partake in the pool be delegated to respective Chief Finance Officers for the reasons outlined in the report.

Annual Review

27. Should the application be successful, the pool would continue to operate for a minimum of one year. Notice can be given annually. Should an individual local authority withdraw the pool ends.

28. It is proposed that where it is not explicit within Financial Rules and Regulations or delegated authorities the Chief Finance Officer be required to review membership of the pool annually and be given the authority to withdraw from the pool where it is not financially advantageous to retain membership. Such decisions to be taken in consultation with the remaining authorities in the pool and at the earliest possible time, in order to allow for an alternative submission to be made.

Recommendation: Chief Finance Officers to review membership of the Pool on an annual basis. Should an authority decide to withdraw membership, notification of intent to do so to be given to the remaining authorities at the earliest opportunity.

Risk Management

29. The key risk revolves around the reduction in the business rate taxbase. This could arise as a result of recession, companies closing down, or the level of rating appeals that are still outstanding resulting in larger than estimated reductions in rateable values. The report by LG futures considers that the risks to the pool of an overall loss from losing two of the highest rate payers for a region, without warning, and for a whole year, as unlikely. Likewise in terms of the economic picture, this is currently improving with growth being forecast in the economy as a whole.

30. The pooling arrangement is voluntary, and regular reviews will be undertaken to ensure continued viability.

31. For Hastings BC however a recent successful rating appeal by a major supermarket in the Borough dating back to 2010 has resulted in a reduction in the rateable value of £510,000 which may well affect whether Hastings is included within the pooling proposal once the September evaluation is concluded.

Financial Implications

32. There are some very significant additional resources available as identified within the report. A pan East Sussex Pool is seen as ideal given the potential use of some or all of the monies for economic development within the area.

Wards Affected

None

Area(s) Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	No
Local People's Views	No

Background Information

1. LG Futures draft report - East Sussex & Pooling: Update, dated 13 June 2014
2. LG Futures, report dated 27 June 2014, providing updated finance projections and sensitivity analysis - East Sussex & Pooling: Safety net proximity and 2013/14 NNDR3 data

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