

Name of meeting: Cabinet
Date: 16th March 2021
Title of report: Leeds City Region (LCR) Business Rates Pool arrangements for 2021/22

Purpose of report

To ratify the Council's membership, and arrangements for the operation and governance and of the Leeds City Region (LCR) Business Rates Pool for 2021/22

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Rachel-Spencer Henshall - 8 March 2021
Is it also signed off by the Service Director (Finance)?	Eamonn Croston - 8 March 2021
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft - 8 March 2021
Cabinet member portfolio	Cllr Graham Turner - Corporate

Electoral wards affected: None

Ward councillors consulted: N/A

Public - Public

GDPR – GDPR has been considered and there is no personal data contained in this report

1. Summary

- 1.1 Government confirmed its intention to continue Business Rate Pool arrangements for 2021/22, but that all prospective Pools, be it a continuation of existing 2020/21 Pools or new Pools, had to apply to Government no later than 23 October 2020. Government also confirmed that the arrangements for 2021/22 would have the same benefits and risks as 2020/21 Pool arrangements.
- 1.2 The Council's Budget Strategy Update report to Cabinet on 21 October and Council on 23 October 2020 set out a number of Pool options for 2021/22. Through member approved delegation to the Chief Executive and Service Director, Finance, in consultation with the Leader, and Corporate Portfolio-holder, a decision was taken to apply at that stage to be part of a Leeds City Region (LCR) Business Rates Pool for 2021/22, including the 5 West Yorkshire Councils, plus Harrogate and York Councils.

- 1.3 The above option was the preferred option at application stage, following a review by existing 2020/21 North and West Yorkshire Business Rates Pool members, and noting that a number of North Yorkshire members had indicated at this stage that they did not wish to be considered for any regional Pool arrangement beyond 2020/21.
- 1.4 The decision to apply to be part of an LCR Pool also acknowledged the continuing COVID impact on the economy, and consequential increased volatility on forecast retained levies by the prospective LCR Pool in 2021/22. Further financial modelling would be undertaken by Leeds Council, who administer the regional Pool on behalf of member Councils, before any final decision was taken. Individual Councils had 28 days following the 2021/22 provisional financial settlement release, at the time anticipated mid-December 2020, to confirm their Pool participation for 2021/22. Any prospective member Council could withdraw their participation at this stage, and this would effectively revoke the Pool application.
- 1.5 The Government's provisional 2021/22 financial settlement announcement was made on 17 December 2020, and no prospective member of the LCR Pool indicated their intention to withdraw within the subsequent 28 day consultation period. The final 2021/22 financial settlement was passed by Parliament on 10 February 2021, including confirmation of the LCR Business Rates Pool for 2021/22. The existing North and West Yorkshire Business Rates Pool will be revoked at the end of the current financial year, 31 March 2021.

2. Information required to take a decision

- 2.1 Business Rates Pools have been a feature of the Government's National Business Rates Retention scheme since the national scheme's implementation from 1 April 2013. Kirklees Council has been a member of a regional Business Rates Pool from this date, including the other four West Yorkshire Councils, plus other participating North Yorkshire Councils from time to time. Regional Pools are designated one year at a time. Applications are submitted to Government annually either to renew existing Pools or create new Pools for the following financial year, in accordance with annual Government guidelines and national timetable.
- 2.2 The 'reward' element of the Pool arrangement is that a number of member Councils, including Leeds, Harrogate and York are levying Councils. The Pooled arrangement allows for business rates 'growth' generated by these Councils above a Government calculated baseline, to be retained by the Pool, and spent on regional initiatives agreed by the Pool members. Without a Pool arrangement, levying Councils would otherwise have to hand over a proportion of any levy growth generated to Government; the proportion tending to vary between 50% or 25% depending on prevailing annual Government scheme guidelines.
- 2.3 The risk element of the Pool arrangement is that the Pool is also responsible for a safety net provision at 92.5% for any member Council who sees significant reductions in their income from the baseline Government calculation. If a member Council falls into a safety net scenario in a particular year, the loss of income below the 92.5% would have to be met in the first instance by the retained levies from the Pool. If there is not enough in retained levies, the net loss would be shared amongst all members of the Pool (including those in safety net).

- 2.4 In reality, regional Pools from 2013/14 onwards have benefited Pool members including this Council through annually retained levy contributions into the Pool, ranging between £10m and £29m annually; subsequently invested in a range of regional initiatives, and in some years, including individual payments back to Pool members. No Pool member to date has been in a safety net scenario over the 8 years that regional Pools have been operating.
- 2.5 Despite the current underlying difficult economic circumstances due to COVID impact on national, regional and local economies, it is anticipated that none of the Pool Members are likely to fall below their Business Rates safety net thresholds for 2021/22.
- 2.6 Current modelled financial forecasts suggest the potential for the LCR Pool to generate up to £5m from retained levies in 2021/22, which while significantly less than previous annual contributions, and subject to some degree of volatility, nevertheless justifies the establishment of the LCR Pool for 2021/22, in conjunction with the safety net risk assessment undertaken by all prospective LCR Pool members, noted in paragraph 2.5 above.
- 2.7 Specific proposals for the allocation of any retained levies will be considered through the LCR Business Rates Joint Committee through 2021/22; the draft terms of reference for which are set out at Appendix A, along with the draft memorandum of Understanding (Governance) agreement for the operation of the Pool for 2021/22, at Appendix B.

3. Implications for the Council

- 3.1 **Working with People**
- 3.2 **Working with Partners**
- 3.3 **Place Based Working**
- 3.4 **Climate Change and Air Quality**
- 3.5 **Improving outcomes for children and young people**

Opportunities for investing any growth income retained by the LCR Pool in 2021/22 in accordance with agreed regional priorities, will be considered and agreed through the Joint Committee in due course.

3.6 Other (eg Legal/Financial or Human Resources)

Financial performance of the LCR Pool through 2021/22 will be monitored at least quarterly through Leeds Council on behalf of all Pool Council members, and reported in-year through the Council's established in-year financial monitoring and reporting cycles.

4 Next steps and timelines

Terms of reference and memorandum of understanding to be formally confirmed by the LCR Pool Committee member Councils for the forthcoming financial year.

5 Officer recommendations and reasons

That Cabinet agrees the following :

- i) to approve the Council's membership of LCR Business Rates Pool for 2021/22;
- ii) to note the revoking of the existing North & West Yorkshire Pool on 31 March 2021;
- iii) to agree the formation of a new joint committee to oversee the operation of the LCR Pool for 2021/22, and to appoint the Leader to the new Joint committee;
- iv) to note the draft terms of reference and memorandum of understanding (governance) agreements for the LCR Pool Joint Committee as set out at Appendices A & B attached; and
- v) to note the draft terms of reference and memorandum of understanding agreements to be ratified by the LCR Pool Joint Committee for the forthcoming financial year
- vi) to delegate authority to the Service Director Legal, Governance and Commissioning to finalise and sign any documentation relating to the new joint committee .

The reasons for these recommendations are that the LCR Business Rates Pool for 2021/22 offers opportunity for any additional business rates levy payments to be retained by the LCR Pool and invested to support regional initiatives to be agreed by the LCR Joint Committee.

7. **Cabinet portfolio holder's recommendations**

The Portfolio-holder agrees with the recommendations set out in this report

8. **Contact officer**

James Anderson
Head of Accountancy
Corporate Strategy, Commissioning & Public Health
Telephone: 01484 221000
Email: james.anderson@kirklees.gov.uk

9. **Background Papers and History of Decisions**

[Agenda for Council on Wednesday 21st October 2020, 5.30 pm | Kirklees Council](#) (Item 6 – Council Budget Strategy Update for 2021/22 and following years)

[Agenda for Council on Wednesday 10th February 2021, 5.30 pm | Kirklees Council](#) (Item 5, Budget 2021/22)

[Final local government finance settlement: England, 2021 to 2022 - GOV.UK](#)

10. **Service Director responsible**

Eamonn Croston – Service Director, Finance
Eamonn.croston@kirklees.gov.uk
(01484) 221000

2021/22 LEEDS CITY REGION BUSINESS RATES POOL JOINT COMMITTEE

TERMS OF REFERENCE

TO BE AGREED

The 2021/22 Leeds City Region Business Rates Pool Joint Committee is authorised to:

- Allocate any excess income arising from levy payments that would otherwise have to be paid by member authorities to the Secretary of State in accordance with the Leeds City Region Business Rates Pool Memorandum of Understanding;
- Determine any changes to the purposes for which any such excess income should be applied, subject to the principle that no authority should receive less than they would if not a member of the 50% Retention Pool;
- Determine the expenses to be deducted by the lead authority administering the Pool;
- Consider any applications for other authorities to join the Pool;
- Determine any variations to the membership of the Joint Committee; and
- Determine any other matters relating to the administration and governance of the Pool including replacement of the lead authority.

The Joint Committee will elect a chairperson.

The Joint Committee will meet as and when required but no less than twice a year.

The quorum for meetings of the Joint Committee will be no less than 5 members. Members will be able to nominate substitutes either from their own authority or from a different member authority that is not a “representative” listed in the Memorandum of Understanding.

Member voting rights will be one vote for each member of the Joint Committee. Voting will be by simple majority. In the event of a tie, the chair of the meeting will have a casting vote.

LEEDS CITY REGION BUSINESS RATES POOL

MEMORANDUM OF UNDERSTANDING

1. Title

- 1.1. Leeds City Region Business Rates Pool.

2. Membership

- 2.1. City of Bradford Metropolitan District Council, The Metropolitan Borough Council of Calderdale, Harrogate Borough Council, Kirklees Council, Leeds City Council, The Council of the City of Wakefield, City of York Council.

3. Commencement

- 3.1. This Memorandum of Understanding will come into force on 1st April 2021 and will continue until any one of the members formally leaves the Pool (see “Dissolving the Pool”, below).

4. Rationale and Objectives

- 4.1. The Leeds City Region Pool exists to benefit the individual members and to further the aims of the region as a whole.
- 4.2. The income received by the Pool will be shared out so that each member authority receives at least the same amount that they would if they were treated individually under the Business Rates Retention scheme. The only exception to this is set out in **Section 8 and 9**, below. Any excess income arising from reductions in levy payments will, after allowing for agreed expenses, be allocated to activities that support economic growth and regeneration across the Pool area.
- 4.3. Any variation to the arrangements set out in **4.2**, above, will require the formal agreement of the Leeds City Region Business Rates Pool Joint Committee.

5. Leadership and Accountability

- 5.1. The Pool will be led by a joint committee comprising of representatives of the member Authorities making up the Pool. Joint Committee representation will be as follows:

- City of Bradford Metropolitan District Council
- The Metropolitan Borough Council of Calderdale
- Harrogate Borough Council
- Kirklees Council
- Leeds City Council
- The Council of the City of Wakefield
- City of York Council

5.2. The joint committee shall be responsible for:

- any changes to the purposes for which the income received by the pool should be used, but the principle that no authority should receive less than they would if treated individually, shall be maintained;
- agreeing the expenses to be deducted by the lead authority administering the Pool;
- considering any applications for other councils to join the Pool;
- any variations to the membership of the joint committee;
- any other matters relating to the administration and governance of the Pool including replacement of the lead authority.

5.3. The local authority representatives, as noted in 5.1 above, will be the leaders of the representative local authorities. Representatives of the member authorities will be able to nominate substitutes.

5.4. The members of the Joint Committee will elect a chairperson.

5.5. The Joint Committee will meet as and when required but no less than twice each year.

5.6. The quorum for the meetings will be no less than 5 members.

5.7. Member voting rights will be one vote for each member of the Joint Committee. Voting will be by simple majority. In the event of a tie, the chair of the meeting will have a casting vote.

5.8. The Joint Committee will be supported by officers drawn from the lead authority.

5.9. The Joint Committee may establish any sub-groups or any officer forums that they believe to be appropriate.

5.10. Minutes of Joint Committee meetings will be published as required by law.

6. Lead Authority

- 6.1. The initial lead authority responsible for the administration of the Pool shall be Leeds City Council.
- 6.2. The lead authority will normally act as such for a full year and may only be replaced at the year end. A lead authority wishing to relinquish the role at the year end (i.e. 31st March) must give a minimum of four months' notice.
- 6.3. Each member of the Pool will be jointly and severally liable for any payments required to the Ministry of Housing, Communities and Local Government but, notwithstanding that, the lead authority will take responsibility for all matters in relation to the administration of the Pool including (but not limited to):
- All liaison with MHCLG and other government departments including the completion of all forms and returns associated with the Pool;
 - Administration of payments to and from the Pool and all calculations relating to the collection fund for the Pool;
 - Producing an annual report showing how income has been distributed and preparing periodic monitoring reports for Pool members;
 - Calculation of the costs of administering the Pool which are to be deducted from the rewards of the Pool. If the excess income generated by the Pool was insufficient to cover the administrative costs of the Pool in any year, then the shortfall would be shared between the Pool members in proportion to their spending baselines;
 - The lead authority will ensure that the pooling arrangements, annual reports and other financial information is published and is freely available on the lead authority website or elsewhere as appropriate.

7. Dissolving the Pool

- 7.1. If any member decides to leave the Pool the regulations require that the Pool will be dissolved. Pools can only be dissolved at the end of a year.
- 7.2. Any authority seeking to leave the Pool should inform MHCLG and all other members of the Pool as soon as possible. Once the Pool has been established, this must be by 30th September in any year, to allow the remaining members time to seek designation of a new pool for the following year (see 7.4, below).

- 7.3. The lead authority will make the necessary calculations and submit the required returns associated with the dissolving of the Pool.
- 7.4. The remaining members of the Pool may choose to form a new Pool and, if they wish, include new members for the following year (subject to new designation by MHCLG).

8. Treatment of Potential Losses in Income

- 8.1. The Pool will have a single safety net threshold set at 92.5% of its baseline funding level. Authorities that suffer reduction in 'retained rates income' to a threshold that is below 92.5% their Baseline Funding Level shall receive a safety net payment to restore their income to 92.5% of their Baseline Funding Level.
- 8.2. If such an authority is a member of a business rates pool, the safety net payment could be lost because the *loss across the pool* may not be as much as the 7.5% threshold. Indeed, if growth across the rest of the pool was weak, it could be that the loss of safety net payments could be greater than the amounts gained from paying reduced levies and the pool could be in deficit for the year.
- 8.3. Authority(s) that would otherwise have qualified for safety net(s) will have their share of pool proceeds calculated in such a way as to include what they would have received as a safety net payment.
- 8.4. The loss in income to the Pool from the safety net(s) foregone in any year will be met from the income generated from other authorities within the pool not having to pay levies in that year. If that levy income is insufficient, then the net loss from the safety net foregone will be shared amongst all the members of the Pool (including those that would have otherwise qualified for a safety net payment) in proportion to their spending baselines for the year to which the safety net(s) would have applied.

9. Treatment of residual benefits or liabilities

- 9.1. Any residual benefits or liabilities arising in regard to the Pool's additional income will be shared amongst all the members of the Pool in proportion to their share of the income received from the Pool.
- 9.2. Any financial benefits committed in 2021/22 for future years' expenditure shall remain under the authority of the Joint Committee until expenditure is either incurred or the Joint Committee agree to treat as "residual benefit" (see 9.1 above).

10. Authority following the dissolution of the Pool

- 10.1. At the point when the Joint Committee ceases to exist, they will authorise the lead authority to make any remaining payments on their behalf.
- 10.2. Any financial benefit committed to future years shall be transferred to the appropriate, sponsoring member authority who would then be responsible for delivering the funding for the schemes in accordance with the original approval. Should the value of funds transferred be greater than the actual cost, the member authority will ensure spend is consistent with the Pool's strategic aims.
- 10.3. Where the financial benefit committed to future years cannot be allocated to a single member authority, the funds shall be transferred to the lead authority who would then be responsible for delivering the funding for the schemes in accordance with the original approval. Should the value of the funds transferred be greater than the actual costs, the lead authority will treat as "residual benefit" (see Paragraph 9 above).
- 10.4.** At the point when the Joint Committee is dissolved, their authority as a decision making group is no longer binding. Any decisions made after this point would be made by the Leaders representing their authority and will be subject to that authority's internal governance processes.