

**Calderdale MBC**

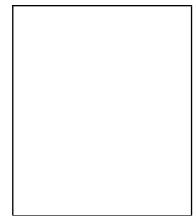
**Wards Affected     All**

**Cabinet**

**16 January 2023**

**Leeds City Region Business Rates Pool**

Report of the Head of Finance



## **1.    ISSUE**

- 1.1 Since the introduction of the Business Rates Retention system in 2013/14, Calderdale has been a member of the Region's Business Rates Pool.
- 1.2 This report provides details of the proposals for 2023/24 along with the associated governance arrangements.

## **2.    NEED FOR A DECISION**

- 2.1 Cabinet's approval is required to ratify the decision to enter the Regional Pool.

## **3.    RECOMMENDATION**

- 3.1 That Cabinet confirms Calderdale Council's participation in the Leeds City Region Business Rates Pool in 2023/24.

## **4. BACKGROUND AND/OR DETAILS**

### **4.1 Business Rates Retention System**

- 4.1.1 Previously, business rates were pooled nationally with the funding redistributed back to authorities on the basis of need. Under the system that started in 2013/14, councils have been retaining 50% of Business Rates collected – the local share. The remaining 50% share of Business Rates, the central share, is paid into a central pool and then re-directed to local government through other grants (including Revenue Support Grant).
- 4.1.2 Some authorities don't collect as much 'local share' as they need, so receive a 'top-up' grant whereas some authorities collect too much for what they need and so pay a 'tariff' over to Government.
- 4.1.3 Councils are also able to keep 50% of all Business Rates growth. However, as some authorities have relatively large amounts of business property in their area and could therefore disproportionately increase their spending power from Business Rates growth, Government takes back a share of that growth (called a levy).
- 4.1.4 The money collected through the levy is used to give financial help, a safety net, to authorities who see their income drop (e.g. due to business closures) by a set percentage below their baseline funding level.
- 4.1.5 In order to be a recipient of a safety net payment, authorities will have to experience a decline in their business rates equivalent to 7.5% of their baseline funding level, with only the loss in excess of this limit being met.

### **4.2 Business Rate Pools**

- 4.2.1 Under Business Rates Retention, groups of local authorities are able to join together to pool their retained business rate income under the scheme.
- 4.2.2 In a pooling arrangement, if a combination of tariff and top-up authorities join together such that they are in overall terms a net top-up, then any real growth in business rates will avoid the levy which the tariff authorities would have otherwise incurred individually. It is this which gives rise to a potential financial benefit to the pool.
- 4.2.3 In 2018/19 and 2019/20 the region was successful in its application to become a Business Rates Pilot and thus was able to retain a greater share of business rates (100% in 2018/19 and 75% in 2019/20). These pilots allowed the constituent authorities to keep growth generated on the rates above the normal 50% rather than Government benefitting from it. This extra income was in addition to the levies under a normal pooling arrangement.
- 4.2.4 The Government however did not extend all the Pilots into 2020/21, although pooling as described in 4.2.1 and 4.2.2 above was able to continue. As a result, a new Business Rates Pool was established in North and West Yorkshire to maximise the benefit of these arrangements. Calderdale agreed to be part of this Pool in 2020/21.
- 4.2.5 Due to the uncertainties around business rates yields because of the pandemic and the lack of a pilot scheme, North Yorkshire decided not to continue in the existing

Business Rates Pool in 2021/22 but the Leeds City Region councils (Calderdale, Kirklees, Bradford, Leeds, Wakefield, Harrogate and York) did form a new business rates pool for this year.

- 4.2.6 The Leeds City Region authorities submitted a request to continue as a Business Rates pool in 2022/23 with a Memorandum of Understanding between the constituent councils broadly in line with that previously in operation. For 2023/24, the old pool was revoked (due to Harrogate not continuing to be part of it) and Leeds City Council submitted a new application on behalf of the remaining authorities (Bradford, Calderdale, Kirklees, Leeds, Wakefield and York). A reproduction of the Memorandum of Understanding governing the pool arrangements can be found in the Appendix.
- 4.2.7 On 19th December 2022 the Secretary of State notified the councils that the new Leeds City Region Business Rates Pool was approved for 2023/24.
- 4.2.8 Each local authority has the opportunity to opt out of the Leeds City Region Business Rate Pool within 28 days of the Provisional Local Government Finance Settlement i.e. by 16th January 2023. If any of the Leeds City Region authorities do decide to withdraw from the Business Rates Pool, then the Pool “falls”, and each local authority would need to operate separate business rate arrangements.

## **5. OPTIONS CONSIDERED**

- 5.1 Members have previously indicated their preference for being part of a Business Rates Pool for the financial benefits to be recycled back into the Region’s priorities.
- 5.2 The Leeds City Region would operate under the previous governance arrangements in place for the Business Rates Pool.
- 5.3 The two options that were available for Cabinet were either to: -
  - 1) Confirm the Council’s inclusion in the Pool        or
  - 2) Opt out of the Pool.

### *Option 1 Confirm the Council’s inclusion in the Pool*

- 5.4 Assuming some growth in business rates amongst the tariff authorities there is a case for a pool to provide a financial benefit to the region. Should there be no growth in the region’s tariff authorities’ business rates this benefit will not accrue. The potential impact and risk of the Pool breaching its safety net is also a consideration. Should any authority’s business rates income fall below the safety net (7.5% of its baseline funding level) then the Pool must meet this cost. In the first instance this would be met from any levies which are generated by the other local authorities in the Pool. If this is insufficient to meet the shortfall then it falls upon all the councils in the Pool in proportion to the baseline funding level.

*Option 2 Opt out of the Pool at this point*

- 5.5 If the Council opts out of the pool then it will be dissolved and none of the financial benefits estimated to be in 2023/24 will be available for the region. The Council would likely suffer significant reputational risk and be criticised by its partners in the region.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 The proposed pooling of business rates income within West Yorkshire and York gives the opportunity to reduce the amount of levy paid by our tariff authorities. The additional yield would instead be retained in the region to fund investment priorities.
- 6.2 Although business rates will technically be pooled, the income received by the Pool will be shared out so that each member authority receives the same amount that they would if they were treated individually under the Business Rates Retention scheme (subject to the operation of the safety net).
- 6.3 If there is no growth though in the tariff authorities, the Region would effectively gain nothing from the pool. It is not known at this stage what the anticipated benefits of the Pool might be for 2023/24.
- 6.4 The risk involved in pooling relates to safety net payments being calculated at a pool-wide level not on an individual authority basis so it is less likely that they can be claimed back from Government barring a wholesale reduction in rates collected across the region. These safety net losses for individual authorities will be shared amongst pool members according to baseline funding (i.e. Government-assessed need). On balance it is considered that the potential benefits outweigh the risks, however, this position will need to be closely monitored.

## **7. LEGAL IMPLICATIONS**

- 7.1 Cabinet needs to ratify Calderdale's inclusion in the Leeds City Region Business Rate Pool. If any of the constituent authorities decide to withdraw from the arrangement, then the Pool would be dissolved until a new one can be set up next year.

## **8. HUMAN RESOURCES AND ORGANISATION DEVELOPMENT IMPLICATIONS**

- 8.1 None identified.

## **9. CONSULTATION**

- 9.1 Through Members on the Leeds City Region Business Rate Pool Joint Committee and officers within each of the Pool's councils.

## **10. ENVIRONMENT, HEALTH AND ECONOMIC IMPLICATIONS**

- 10.1 There are not expected to be any negative environmental or health implications, but the Leeds City Region will gain economically from additional funding being retained to support sustainable economic growth and regeneration across the Pool area.

## **11. EQUALITY AND DIVERSITY**

11.1 No equality and diversity implications have been found.

## **12. SUMMARY AND RECOMMENDATIONS**

12.1 Although much reduced due to the Government's recent policy change on pilots, and more recently the impact of the pandemic on business rates more generally, pooling is still expected to result in increased funding for the region. Risks around safety nets are highlighted within the report, but it is felt that the reward expected from the Pool outweigh the risks to the Council. It is therefore recommended that Members ratify Calderdale's inclusion in the Leeds City Region Business Rates Pool in 2023/24.

### **For further information on this report, contact:**

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### **The documents used in the preparation of this report are:**

1. Previous Cabinet Reports on Business Rates Pools and Pilots
2. Provisional Local Government Finance Settlement for 2023/24

### **The documents are available for inspection at:**

Online/Princess Buildings, Halifax

# Leeds City Region Business Rate Pool 2023/24

## Memorandum of Understanding

This Memorandum of Understanding is made between the following councils:-

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

(Together referred to as the 'Pool' or 'Pool Members').

### 1. Purpose

1.1. The main aim of the pool is to maximise the retention of locally generated business rates and to ensure that it further supports the economic regeneration of the wider Leeds City Region. The modelling work that has been undertaken by the Pool demonstrates that financially the Leeds City Region would retain a greater share of business rates revenue through pooling than it would otherwise do, as long as it experiences economic growth. This will act as a further incentive for all the pooling authorities to proactively work together to drive economic growth within the Bradford, Calderdale, Kirklees, Leeds, Wakefield and York areas.

1.2. It is the purpose of this Memorandum of Understanding to act as a statement of intent that will support the realisation of these benefits. The Pool Members have agreed to enter into this Memorandum of Understanding to formalise their commitment and to set out their respective roles and responsibilities from the 2023/24 financial year.

### 2. Glossary of Key Terms

2.1. There are a number of technical terms used throughout this document. The meanings of these terms are as follows:

#### Levy

A formulaic mechanism to pay a percentage of additionally raised local business rates income over to central government when a target (set nationally for each billing authority) has been exceeded.

#### Pool

A voluntary arrangement amongst a group of local authorities to pool the business rates generated locally to ensure at least some of any levy is retained locally.

#### Net Retained Levy

The amount of levy retained locally. This is calculated as the sum of levies to be paid by individual Pool members if the Pool did not exist less the levy to be paid by the Pool less any safety net funding that would have been due to individual Pool members if the Pool did not exist and less the administrative costs of the Pool.

### Safety Net

The additional funding received by an authority, from central government when not a member of a pool, if, in the government's opinion, the decline in business rates in any year would leave an authority with insufficient resources. Calculated using a national formula.

### Lead Authority

The Pool member who will act as the lead in managing the Pool's resources and being the key contact between central government and the Pool

### Schedule of Payments

The Lead Authority will prepare an annual schedule that reflects all the financial payments to be processed through the pool, clearly indicating the amount and timings of each payment and who needs to make what and payment to whom.

### Residual Benefit of the Pool

Any funding remaining from Net Retained Levy payments once the decisions of the joint committee on how some of those Net Retained Levy payments should be utilised have been fulfilled.

### Retained Rates Income

The retained rates income for each member authority had they acted individually as defined by the Non-Domestic Rating (Levy and Safety Net) Regulations 2013, Regulation 4 as amended.

### Baseline Funding Level

The Baseline Funding Level for each member authority had they acted individually as published in the Local Government Finance Settlement as laid before Parliament for 2023/24.

### Tariff or Top up

The Tariff or Top up for each individual member authority had they acted individually as published in the Local Government Finance Settlement as laid before Parliament for 2023/24.

### Business Rates Baseline

The Baseline Funding Level less the Tariff or Top-up (whichever is appropriate) for each member authority had they acted individually as published in the Local Government Finance Settlement as laid before Parliament for 2023/24.

### Individual Populations of Member Authorities

The estimate of the population in each member authority's area for 2020 as defined by the Mid-Year Population Estimates published by the Office for National Statistics in June 2020.

## 3. Key Principles

3.1. The Pool Members agree that they will operate the Pool in accordance with the following principles:

### Increase in Resources

The Pool Members recognise that the fundamental objective of the Pool is to generate increased resources for the area, and individual Pool Members

### Risk Management

The Pool Members agree to protect and mitigate as far as possible the risks associated with the level of business rate income. Income streams to the Pool Members may be more volatile, whether as the result of a one-off event (for example a successful large appeal) or something structural within an area (for example the closure of a major plant). The pooling arrangements should reduce this volatility.

### Fairness

The Pool Members agree to share the costs, risks and benefits of local business rate retention proportionately. Pool Members should be no worse off than if they were outside the Pool.

### Transparency, Openness and Honesty

Pool Members will be open and trusting in their dealings with each other, make information and analysis available to each other, discuss and develop ideas openly and contribute fully to all aspects of making the Pool successful. It also includes sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.

### Reasonableness of Decision-Making

Pool Members agree that all decisions made in relation to this Memorandum of Understanding shall be made by them acting reasonably and in good faith.

## 4. Binding Memorandum

4.1. This Memorandum of Understanding is produced as a Statement of Intent and, with the exception of Sections 5, 10 and 11, is not intended to be legally binding.

4.2. Sections 5, 10 and 11 are intended to be legally binding and to create obligations between Pool Members with immediate effect from the execution of this Memorandum of Understanding.

4.3. Pool Members have approved this Memorandum of Understanding in advance of the Secretary of State designating the Pool for the purposes of the Business Rates Retention Scheme. If the Secretary of State adds conditions to the designation, either initially or at any point in the future an immediate review of this Memorandum of Understanding, as outlined in Section 12, will be triggered.

## 5. Term of Memorandum

5.1. This Memorandum of Understanding shall continue to be in place unless terminated in accordance with these terms.

5.2. Any Pool Member can leave the Pool from 1 April of the following financial year providing:

- Written notice is given to other Pool Members and DLUHC (Department of Levelling-Up, Housing and Communities) in at least sufficient time for the Pool to apply to continue for the remaining Pool Members, should they wish it to continue. Sufficient time is taken to be at least the time specified by DLUHC in regulations and/or guidance or 30th September preceding the end of the relevant financial year, whichever is earlier.
- All liabilities to and from the Pool are paid.



## 6. Decision-Making

6.1. 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
- Kirklees Council
- Leeds City Council
- The Council of the City of Wakefield
- City of York Council

6.2. The joint committee shall be responsible for:

- Any changes to the purposes for which the Net Retained Levy 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;
- Any of the matters relating to the administration and governance of the Pool including the replacement of the Lead Authority.

6.3. The representatives of the member authorities making up the Pool, as noted in subsection 6.1 above, will be the leaders of the members authorities. The representatives of the member authorities will be able to nominate substitutes.

6.4. The members of the joint committee will elect a chairperson.

6.5 The joint committee will meet as and when required but no less than twice each year.

6.6 The quorum for the meetings will be no less than 4 members.

6.7 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.

6.8 The joint committee will be supported by officers drawn from the Lead Authority.

6.9 The joint committee may establish any sub-groups or any officer forums that they believe to be appropriate.

6.10 Minutes of the joint committee meetings will be published as required by law.

## 7. Dispute Resolution

7.1. The Pool Members shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Memorandum of Understanding. If this cannot be resolved by the Chief Finance Officers it will be referred to a meeting of all member authorities' Heads of Paid Service for resolution.

## 8. Resourcing

8.1. Each Pool Member will provide the appropriate resources and will act with integrity and consistency to support the intention set out in this Memorandum of Understanding.

8.2. In the event that the Lead Authority needs to incur additional expenditure in order to administer the pool, any reasonable costs agreed by pool members should be the first call on the Net Retained Levy.

## 9. Lead Authority

9.1. Leeds City Council will act as the Lead Authority for the Pool.

9.2. The responsibilities of the Lead Authority are:

- to make payments on behalf of the Pool to central government and Pool Members on time and in accordance with the schedule of payments,
- to liaise with and complete all formal Pool returns to central government on behalf of Pool Members,
- to keep Pool Members informed of all communications with central government,
- to manage the resources of the Pool in accordance with this MoU,
- to prepare reports and consolidate intelligence on future resource levels on behalf of the Pool for the consideration of the joint committee,
- to convene an urgent meeting of the joint committee if there is the possibility that the pool could make a loss.
- to prepare the annual report of the Pool's activity,
- to co-ordinate the annual review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources,
- to consult on and administer a schedule of all payments in respect of all financial transactions that form part of the Pool's resources, and
- to lead on the timely provision of the information required, by Pool Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pool.

9.3. To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:

- to make payments on time and in accordance with the schedule of payments,
- to provide accurate, timely information to the Lead Authority to enable all formal Pool returns to central government to be completed,
- to inform the Lead Authority, as soon as is practical, of any intelligence that may impact on the resources of the Pool either in the current year or in future years,
- to provide such information as the Chief Finance Officers agree is reasonable and necessary to monitor/forecast the Pool's resources within the timescales agreed,
- to provide such information as the Chief Finance Officers agree is reasonable and necessary on the use of the Pool's resources for inclusion in the Pool's annual report, and
- to provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable the Lead Authority to calculate the end of year accounting entries needed.

## 10. Cash Management

10.1. The governing principle for the cash management of the Pool is that no individual Pool Member, including the Lead Authority, should incur a cash flow gain or loss as a result of the transfer of funds between Pool Members.

10.2. The Pool will receive/pay interest annually on any retained resource at the average investment rate of the Lead Authority.

10.3. Interest will be calculated on an annual basis and allocated to Pool Members based upon a method agreed by the Chief Finance Officers.

10.4. Where the Pool is required to make a payment to the Secretary of State, each authority in the Pool is jointly and severally liable to make that payment.

10.5. Any late payment to or from the Secretary of State may be subject to a late payment interest charge at base rate plus 4%.

## 11. Allocation of Pool Resources

### Principles

11.1. The allocation of resources will be based on the following principles.

- Each individual authority, will receive at least the same level of funding they would have received without the Pool. The remaining amount will be the “Net Retained Levy”.
- Any additional resource that is generated will be shared by pool members using the basis of allocation below. This allocation methodology looks to reward members of the pool for achieving business rate growth.
- The rationale for the Pool is to encourage economic growth therefore Pool Members are encouraged to use the additional resource to promote further economic growth.

### Basis of Allocation

11.2. The underlying basis of allocation is as follows:

A - The running costs of the pool, if any, will be initially paid by the lead authority and will be reimbursed to them from the Net Retained Levy.

B - If after A, the Net Retained Levy is greater than £0 (i.e. the pool has made an overall gain), then the first £200k of Net Retained Levy will be a top-slice amount to City of York Council. If there is any further Net Retained Levy following this, then the joint committee will make decisions as to how it is used to further regional economic growth.

C - If after A and B, the remaining Net Retained Levy is greater than £0 (i.e. the pool has more Net Retained Levy than is required for the purposes of the decisions of the joint committee) then it becomes a Residual Benefit of the Pool and it will be shared out using the following apportionments: -

i) 25% of the Residual Benefit will be allocated to all member authorities in proportion to the growth in Retained Rates Income above the Business Rates Baseline.

ii) 25% of the Residual Benefit will be allocated to all member authorities in proportion to the Individual Populations of Member Authorities.

iii) 25% of the Residual Benefit will be allocated to the Pool's top up authorities – The City of Bradford Metropolitan District Council; The Metropolitan Borough Council of Calderdale; Kirklees Council; and the Council of the City of Wakefield and will be allocated between these councils in proportion to the top ups received from DLUHC in 2023/24.

iv) The remaining 25% gain will be split among the Pool's remaining authorities (tariff authorities – Leeds City Council and the City of York Council) based on business rates growth. This will be achieved by splitting the remaining 25% in proportion to the actual levy payment of the councils, had they acted individually.

D - Where the Residual Benefit of the Pool is less than £0, (i.e. where the Pool makes an overall loss) – the loss will be shared between all member authorities in proportion to their Baseline Funding Level.

11.3 Where a member authority ceases to exist before a final determination of their allocation from any residual benefit from the Pool is made, the determination will be made as if that member authority existed. If payment is subsequently due to the member the payment will be made to any success organisation of the member authority.

## 12. Review Arrangements

12.1. A review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources will be undertaken on an annual basis. It will be co-ordinated by the Lead Authority on behalf of the Chief Finance Officers and in sufficient time for any changes in Pool Membership to be in place before the start of the following financial year.