

THURSDAY, 17 OCTOBER 2019

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE**BUSINESS RATES POOLING 2020/21****PURPOSE**

To consider the options for the operation of a Business Rate pool with other Local Authorities from April 2020, arising from the deferral of the planned reform of the Business Rates Retention scheme.

RECOMMENDATIONS

That Cabinet:

- a) Approve the principle of the Staffordshire pool remaining in place for 2020/21;**
- b) Delegate approval for the Executive Director Finance (Section 151 Officer), in consultation with the Leader of the Council and the Chief Executive, to agree, in conjunction with the other authorities of the proposed pool, the detail of the 2020/21 application.**

EXECUTIVE SUMMARY

The Secretary of State (SOS) for Housing, Communities and Local Government has announced that other than the Devolution Pilots of 2017/18 all other pilots will terminate this year.

The Ministry of Housing, Communities and Local Government (MHCLG), in an email dated 17 September 2019, have announced that the option for the pilot to continue in pools status only, based upon a 50% scheme, will be available.

The existing pool designation, as required to achieve pilot status, will remain in place unless one, or more, of its pool members request the pool to be dissolved. However in accordance with the internal Pooling Agreement the pool would effectively cease since at this moment in time it is not possible to identify if pooling is of benefit, due to its deferral, under the new 75% regime (a condition for its continuation).

The pilot status, in addition to deriving windfall in trialling the 75% scheme, also operates as a 50% pool and avoids a levy on growth being paid to the Government. A levy is only payable for Tariff Authorities but the pilot aggregates in total to be a top up Authority thereby avoiding the levy.

The levy saved for the current year amounts to £8.1 million and would be repaid to Government, rather than be used to support Staffordshire budgets, unless a pool is in place.

In accordance with the "Invitation to Pool 2020-21" from MHCLG the pool can be dissolved; reconfigured; authorities can join other pools or a new pool(s) created.

All of the options are effectively available and since pooling is voluntary, members are free to determine their preferred option. The deadline for receipt of the pooling option of each authority is required by MHCLG by the 25 October 2019. A Memorandum of Understanding, signed by each Section 151 Officer, is required as part of the submission.

In light of the above and the timescale involved the rolling over of the existing pilot is considered to be the most straightforward option. Not only does the pool currently exist, and is not dependent upon the SOS allowing the new pool to be designated; the distribution of the levy saved and governance arrangements can be determined locally rather being subject to negotiations with other pools.

As with the current Pilot arrangement, the methodology for the distribution of the levy saving acknowledges the no loss principle and that the continuation of the pool is dependent upon all members agreement and that the top up authorities (County/ City and Fire) facilitate the levy saving.

OPTIONS CONSIDERED

As outlined within the report.

RESOURCE IMPLICATIONS

In accordance with the “No Detriment” Clause the Council will not only receive the same level of resources as determined by the 50% Business Rates retention Regime (40% of the retained levy) but also additional resources of c.£215k are envisaged for 2020/21 reflecting this Councils share of the previously designated contingency set aside element.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Risk Management Implications of pooling arrangements for the proposed pilot have been referred to throughout the report but can be summarised as follows.

The pooling of Business Rates enables a greater proportion of Business Rates to be retained by Authorities by retaining the growth achieved which otherwise would be paid over to the Government under the levy arrangements.

There are a large number of risks that already exist in relation to Business Rates Retention however the greatest risk is in relation to the level of appeals.

BACKGROUND INFORMATION

The Staffordshire and Stoke on Trent Business Rates (Pilot) Pool was created on the 1 April 2019. The previous two pools - Staffordshire and Stoke on Trent (S&SOT) and Greater Birmingham and Solihull (GBS) - dissolved on that date but could not be formally dissolved until the NNDR claims for 2018/19 had been audited

Details of the 2020/21 Local Government Funding Settlement are still awaited however the announcements following the 2019 Spending Review confirmed the assumption that the current regime will roll forward into 2020/21.

The introduction of 75% Business Rates Retention (and the Fair Funding Review) is to be delayed until 2021/22 and the SOS has announced that all pilots, other than Devolution Pilots, will cease after the 31 March 2020.

Prior to this announcement Stoke- on-Trent City Council had already commenced lobbying to roll over the 2019/20 pilot to 2020/21. A letter to both the Chancellor and SOS (MHCLG) was submitted on behalf all 12 member authorities to extend this pilot by 12 months or to provide some other form of transitional funding pending the introduction of the new funding regime in 2021/22.

MHCLG, in advance of Technical Consultation on the Financial Settlement, issued an “Invitation to Pool 2020-21 “ to both existing pilot/pools and to non pooling authorities.”

In accordance with the 50% Business Rates Retention Scheme existing pooling arrangements will continue from year to year until a designation is revoked. A request to dissolve a pool can be made anytime during the year, but will apply from the following 1st April. If a pool is dissolved members will return to their individual tariff; top up and safety net levy payments.

Pool Designations are proposed as part of the Draft Local Government Finance Report (Provisional Settlement). Local authorities can withdraw from a designated pool at any time up to 28 days of the publication of the Draft Settlement. In the event that a pool is designated in the Draft report and an authority withdraws the pool ceases and all authorities revert to individual authorities. Any change to pooling arrangements effectively needs to be made in advance of the provisional settlement

A cut off date of 25 October 2019 has been set for authorities, or pools of authorities to state whether they wanted existing pools to continue; to be revoked or reconfigured; or new pools created. The deadline enables such a pool to be proposed (designated) in the provisional settlement.

At present the pilot will not continue past the 31 March 2020, and a formal decision on whether lobbying for an extension for 2020/21 is unlikely to be known until the Provisional Local Government Settlement towards the end of this year. The pilot therefore is required to make a decision on if it wants to remain as a pool.

In the event that pilot status is not granted and the pool is terminated the area would, on top of losing the £14 million windfall, also lose in the region of £8.1 million as a result of the levy being applied.

Existing Government arrangements require a Tariff Authority, whereby Business Rates is greater than funding requirement, to pay 50% of its growth to the Government (a top up authority is not subject to a Levy).

Each District is currently a Tariff Authority and would be subject to a 50% levy unless in a pooling arrangement. The aggregation of County, City and Fire authorities top up amounts results in no levy being paid since a net top up position exists.

The termination of the pilot (pool) would in the first instance only have a direct impact on District/Borough Councils who have enjoyed pooling status for a number of years with £3.2 million of avoided levy being specifically allocated for 2019 /20. The residual balance has historically been set aside for economic development and to provide a contingency fund and amounted to £4.9 million.

Four potential options exist in terms of the pilot and pooling:

- The pilot is dissolved and no pooling arrangements exist for 2020-21 (loss of £8.1 million);
- The pilot is dissolved and members recreate / re-join former pools (levy saved to be determined);
- The pilot is dissolved and a pool reconfigured with a different membership (levy saved to be determined);
- The existing pilot (pool) rolls forward to 2020/21 with a revised methodology for distribution (£8.1 m retained in Staffordshire).

In submitting the 2019/20 application the option existed for each authority to resort to previous pooling arrangements notably the Staffordshire and Stoke-on-Trent Pool and the Greater Birmingham and Solihull Pool. Both pools however dissolved as a result of the pilot being successful.

The option to reform both pools may exist however there are a number of barriers in relation to recreating the latter pool:

- The GBS pool contained two Worcestershire authorities, part of Worcestershire Area pilot for 2019/20, in addition to Birmingham and Solihull.
- Authorities cannot be members of more than one pool (the GBS pool was however allowed to continue to avoid other members being disadvantaged as part of the Devolution deal for the Combined Authority). Hence it is not clear whether Birmingham as a top up authority would be allowed to form a new pool.
- A rationale for a pool would need to be agreed.
- New Governance arrangements and distribution methodology would need to be agreed.
- The timetable to propose a new pool is likely to be very tight.

At the time of writing the Memorandum of Understanding/ governance arrangements for the 2019/20 pool does not necessarily mean that the existing pool can roll forward.

The continuation is in effect dependent upon whether the actual 75% scheme, now to be introduced in 2021/22, enables a greater share of business rates to be retained in Staffordshire as compared to non-pooling. At the date of writing it was envisaged that this new scheme would be introduced in 2020/21 and details of potential benefits of pooling would be available. Nevertheless members of the pilot would need to request the pool be dissolved.

Due to the uncertainty relating to the medium term benefit of pooling it is recommended that:

- arrangements are put in place to ensure a pool exists for 2020/21.
- If pilot status is extended the current agreement remains in place.
- the existing pool is rolled over to 2020/21 subject to amendment to reflect the 2020/21 pooling position/governance arrangements and a decision made on its future following details of the new scheme being published.

- the 2020/21 pool is treated as a one off and the £4.9 million as identified is treated as a windfall in that year rather than allocated as above.
- in the event that the new regime is not implemented in 2021/22 the pooling arrangements as agreed for 2020/21 remain in place.

The continuation of the pool requires the agreement of all 12 authorities and each authority should benefit from the scheme.

The 'No Detriment' basis of the pilot applies to the proposed distribution method for the levy saving , notably that a member will not be worse off

- by being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool.
- No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool.

First call on the levy saving will therefore be the 40% retained locally as at present. Thereafter a guaranteed minimum should be provided to all districts and boroughs recognising that the levy saved has been generated by such authorities and that each is an equal partner in the 2020/21 arrangements. It is envisaged that 20% of the levy saving will shared equally amongst the 8 district boroughs.

In relation to guaranteed allocations it is proposed that:

- The OPCC receives £100,000 reflecting the reduced amount of the levy saving as compared to the windfall;
- The Fire Authority receives the same amount as 2019/20 reflecting their contribution to the levy saving as a top up authority;
- The accountable body allocation is reduced to £25,000.

In accordance with the rationale of the pilot to provide additional support for upper tier authorities and their role in facilitating the levy saving as a Top Authority the balance of the levy saved will be split between the County Council and City Council.

The % split is based upon the average of distribution under windfall arrangements; an equal partner basis and the respective top up facilitating role.

The roll forward of the arrangements would re affirm that if the pool terminates after a further year, the amount of existing contingency set a side, both at formation of the pilot and as a result of the 20% set aside of levy saved in 2019/20 would be released to the contributing authority, subject to any safety net requirement arising in 2020/21.

REPORT AUTHOR

If Members would like further information or clarification prior to the meeting please contact Stefan Garner, Executive Director Finance, tel. 709242.

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