

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
FINANCE	FINANCE AND DEMOCRACY COMMITTEE	26 SEPTEMBER 2016	9
BUSINESS RATE POOLING 2017/18			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

This report summarises the operation of a 'business rate pool' under the revised 'localisation of business rate' arrangements which have been in place since April 2013. The report notes the existence of such a pool for Lancashire authorities which came into being for the 2016/17 financial year.

At the meeting of 28th September 2015 this Committee considered whether Fylde Council ought to participate in the Lancashire Business Rate Pool for 2016/17. The Committee determined that Fylde Council would not be a member of that pool for that year and that the position would be kept under review.

This report provides that review and seeks the agreement of the Committee that Fylde Council ought to continue the current position of non-participation in the Lancashire Business Rate Pool in respect of the 2017/18 financial year.

RECOMMENDATIONS

The Committee is recommended to:

1. Agree that due to the continuing financial risk arising from the potential cost to the Council from membership of a business rate pool that Fylde Council does not participate in the Lancashire business rate pool for 2017/18; and
2. Agree that participation in the Lancashire business rate pool for 2018/19 and subsequent years should be kept under review and should be the subject of a report to the committee for consideration during next financial year.

SUMMARY OF PREVIOUS DECISIONS

At the meeting of 28th September 2015 this Committee considered the participation by Fylde Council in a Lancashire Business Rate Pool for 2016/17 and determined:

1. That due to the financial risk arising from the potential cost to the Council from outstanding historic business rate appeals that Fylde Council do not participate in a Lancashire business rate pool for 2016/17; and
2. That participation in a Lancashire business rate pool for 2017/18 and subsequent years should be kept under review and should be the subject of a report to the committee for consideration during next financial year.

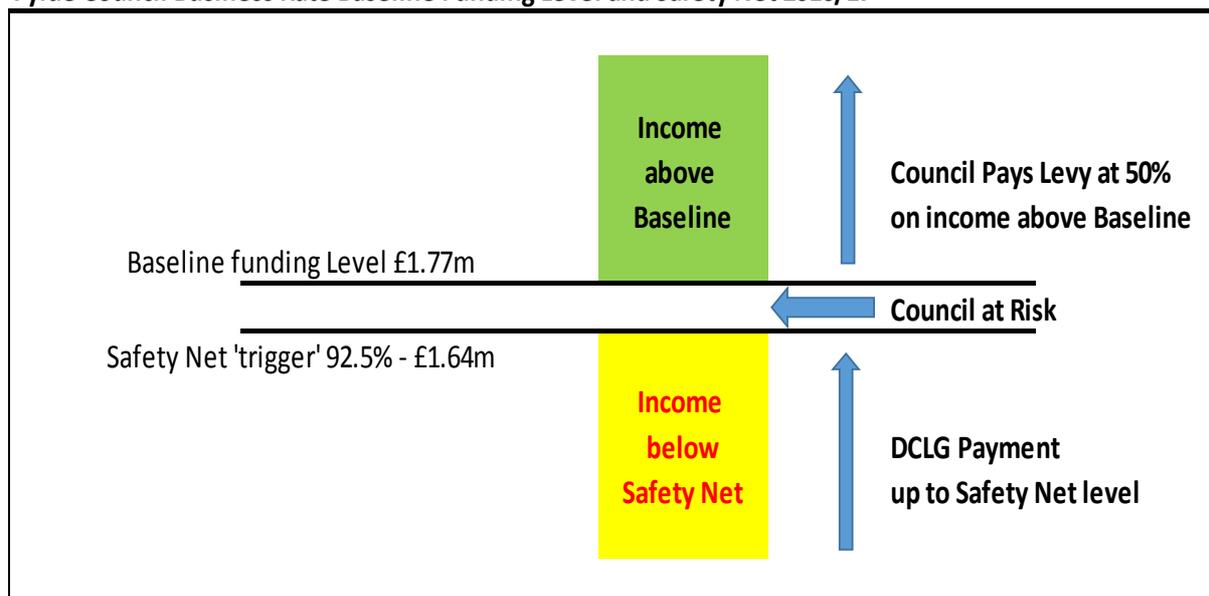
CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

1. INFORMATION AND BACKGROUND

- 1.1 Business rates are a key source of funding for local authorities. Under the business rates retention system each billing authority retains a share of the business rates for its area based on prescribed proportions. For Fylde, this is 40% retained with the remainder shared between Central Government, County Council and Fire Authority (50%, 9% and 1% respectively).
- 1.2 All district Councils in two-tier areas, like Fylde, are classed as ‘tariff’ authorities; this means the Council’s individual rates baseline is greater than its baseline funding level (which is effectively the Council’s ‘need’ as calculated by central government) which results in the Council paying a tariff to the Government from its share of “retained” business rates. Therefore Fylde pays a tariff over to the government from its retained 40% share of business rate.
- 1.3 The business rates retention system also provides for councils to benefit from a share of growth in their business rates base and exposes them to the risk of reduced income where changes are adverse (e.g. business closures, rating appeals). The system, as currently designed, includes mechanisms for both a **levy** and a **safety net** to moderate such variances. A **levy** applies where an authority’s retained share of rates income exceeds its baseline funding level, whereas a **safety net** operates when the retained share of rates income falls below 92.5% of the baseline funding level. The diagram below illustrates this and shows the values for Fylde for 2016/17.

Fylde Council Business Rate Baseline Funding Level and Safety Net 2016/17



- 1.4 The diagram shows that under the current system if the Council's share of retained business rate income exceeds the value of the Baseline Funding Level (which for 2016/17 is £1.77m as calculated by DCLG) the Council retains 50% of the growth and pays 50% the remaining 50% to the Government by way of a levy.
- 1.5 Conversely the current system provides a degree of protection in that if the Council's share of retained income drops below the Baseline Funding Level the extent of this drop is 'capped' at a level equivalent to 92.5% of the Baseline Funding Level (the 'Safety Net' level - which for 2016/17 is £1.64m). If the Council's share of retained income drops below this level the Council receives a grant to bring the income up to the safety net level.

2. BUSINESS RATE POOLING

- 2.1 A feature of the business rates arrangements allows Councils to group together to form a 'business rates pool'. Under such an arrangements Councils in a pool combine all of their funding calculations under the business rate scheme, effectively adding their numbers together for all elements - of the funding calculation, including the calculation of the tariff and top-up amounts.

For 2016/17 a number of the Lancashire district Councils formed a business rate pool together with Lancashire County Council. This contained all of the district Councils in Lancashire with the exception of Fylde Council, Preston City Council and Lancaster City Council. As unitary Councils, Blackpool and Blackburn-with-Darwen Councils have very different business rates profiles under the localisation of business rates arrangements and neither were part of the Lancashire pool.

- 2.2 For 2016/17 it has been estimated that the effect of aggregating all the business rate calculations of the Lancashire pooling authorities (comprising a number of the district councils which are 'tariff' authorities and Lancashire County Council which is a 'top-up' authority) will have the effect of producing a position whereby no levy to central government would be payable by any of the pooling authorities. Each authority will continue to retain the majority of the growth in its business rates income that it would have retained as an individual authority outside of the pool (subject to agreed pool management arrangements, any central pool contributions and after administration costs have been met) but would no longer be required to pay any of this growth over to central government through the levy system.

- 2.3 However, a business rates pool arrangement is not without risk. As part of a pool, a Council relinquishes the security afforded by the 'Safety Net' mechanism as described above. i.e. there would be no safety net protection should the Council's share of retained income fall below a specified level.
- 2.4 In common with most other councils Fylde has a large number of business rate appeals which are yet to be determined by the appropriate agency, the Valuation Office. Many of these appeals were lodged prior to the commencement of the revised business rates arrangements and they often include an element of back-dating to the time of the original valuation which can significantly increase the potential cost to the Council.
- 2.5 The Council is required to make adequate provision to meet the estimated cost of rating appeals. As a result of the continuing scale of the potential cost to the Council arising from historic appeals it has been necessary, as part of the 2015/16 outturn, to significantly increase the business rate appeal provision from £3.560m at 31st March 2015 to £9.613m at 31st March 2016. This judgement is based upon information held on the volume and potential value of outstanding appeals and after having taken specialist advice.
- 2.6 The effect of this has been that for 2015/16 the Council's share of the business rates income fell well below the safety net level. The Council will therefore receive a Safety Net payment in respect of 2015/16 of £0.953m from the DCLG to bring the Council back to the safety net funding level.
- 2.7 For the previous year, 2014/15, the Council received a Safety Net payment of £0.331m from DCLG to bring the Council back to the safety net funding level.
- 2.8 Had the Council been in a pooling arrangement for either of those years then the safety net protection would not have existed and the safety net payments would not have been received and the Council would have been significantly worse-off.
- 2.8 Subsequent to the financial outturn for 2015/16, one of the largest of the business rate appeals within the Fylde borough (in terms of potential cost to the Council), that of the Springfields site, has been heard and dismissed by the Valuation Office Tribunal. This represents a significant reduction in the overall value of appeals for which the Council has had to make provision and is likely, depending upon the outcome of other appeals within estimated cost-parameters, to lead to some benefit to the Council in the form of the release of monies from the provision in the coming years. However there remains a significant number of other outstanding historic appeals. As and when these are determined by the Valuation Office Tribunal the existing level of provision for these costs may or may not be sufficient to cover those costs. This represents an on-going risk to the Council's Business Rates income until all outstanding appeals have been determined.
- 2.9 Current membership of the Lancashire business rates pool suggests that those Lancashire districts which have experienced growth in their business rates over the last couple of years and have paid a levy over to the government have decided to join the pool for 2016/17 as a result of that recent trend such that they retain a share of their levy payment, whilst Fylde, Preston and Lancaster which have fallen below that safety net have decided to remain outside of the pool.

3. CONCLUSIONS

- 3.1 The formation of a Lancashire wide pool presents both an opportunity (to retain levy payments which would otherwise be paid over to central government if there is growth in business rate income in the borough) and a risk (in that joining a pool removes the government's safety net protection system).
- 3.2 The decision on whether or not to join the pool comes down to a judgement call on whether or not the Council's income from business rates is likely to be above or below the safety net

level for 2017/18. Such an assessment is problematic due to the large fluctuations caused by movements in the provision for appeals. For both 2014/15 and 2015/16 the Council's income has been below the safety net level and the Council has therefore benefitted for being outside any pooling arrangement and has been in receipt of safety net payments from DCLG totalling £1.284m which would not have been receivable had the Council been in a pool.

- 3.3 On balance it is recommended that because of the on-going risk from outstanding business rate losses (including the potential for significant costs relating to historic appeals) Fylde Council do not seek to participate in a business rate pool for Lancashire in 2017/18 and that this position is reviewed for future years. Remaining outside the pool offers the Council the protection of the safety net arrangements which have benefitted Fylde for the last 2 years whilst meaning that the Council can still retain the benefit of a share of the growth in business rate income above the baseline level albeit at a lower level than would be the case if the Council was in the pool.

IMPLICATIONS	
Finance	Whilst it is impossible to project with any accuracy the 2017/18 financial position in terms of Business Rates Retention, it is considered that joining a pool at this stage presents a financial risk to the Council due to the potentially high value of Business Rate losses such that income falls below the Safety Net level, and as such it is recommended that Fylde Council do not seek to participate in a business rate pool for Lancashire in 2017/18.
Legal	The legal framework for the formation of a business rates pool is set out in paragraph 34 of Schedule 7B of the Local Government Finance Act 1988 (as inserted by schedule 1 to the Local Government Finance Act 2012). Each pool has to decide (and get approval from Government) on its governance arrangements. These cover, at the least: <ul style="list-style-type: none"> - the rights and obligations of pool members, including - how money is to be disbursed to/between pool members and how payments to central government are to be funded by the lead authority - the treatment of pool balances and liabilities following the pool's dissolution.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A		N/A

