

Committee: Cabinet

Agenda Item

Date: 22 October 2015

10

Title: Business Rates Pooling in 2016/17

Portfolio Holder: Councillor Simon Howell

Key decision: No

Overview:

1. In summary prior to 1 April 2013 all business rates income was paid over to central government in full. Following the introduction of Business Rates Retention scheme 50% is now paid to central government and 50% retained by local government (40% district council, 9% county council, 1% fire authority). A complex array of tariffs, top-ups, levies and safety net adjustments operate to avoid significant adverse fluctuations or enrichment, nevertheless risks and opportunities for local authorities now exist.
2. Under the old scheme any increase in business rates within an area was paid to central government with no direct benefit to the local authority. In setting up the scheme, the government has tried to incentivise authorities to pursue economic growth by allowing them to retain some of the benefit from growth in business rates.
3. It is possible for groups of local authorities to be financially better off if they pool their business rates, compared with each local authority acting alone. By combining in a pool it is possible to retain more of the additional funds from growth in business rates within a county wide area.
4. In the past the Council discussed the option of entering into the Essex business rates pool and agreed not to put itself forward as a pooling partner but to consider the pooling arrangement for future years. The 2014/15 business rate pool didn't go ahead. 2015/16 is the first year of the Essex business rate pool and Uttlesford is not a member it. It is now time to look at the potential for joining the pool for 2016/17.
5. The Essex business rate pool intention is to minimise the amount of levy paid on business growth to central government, thus maximising the funds retained in Essex. The matter has been discussed at the Essex Finance Officer Association (EFOA) meeting and a formal commitment to pursue the pooling project is sought from each Essex authority. The Council needs to notify Essex County Council (ECC) its decision so that the ECC can submit a formal interest to DCLG by 30 October 2015.
6. With all of the recent announcements around Business Rates and in particular local authorities retaining 100% of sums collected it is possible that the ability to pool business rates may be removed as part of the Autumn Statement. It has been agreed with our Essex colleagues that all relevant authorities will proceed with establishing a 2016/17 pool.

Recommendations

7. It is recommended that the Cabinet:
 - a) Approve in principle to join the Essex business rates pool administered by Essex County Council.
 - b) Approve delegated authority be given to the Section 151 Officer, in consultation with the Finance Portfolio Holder, for the pooling proposal and governance arrangements.

Financial Implications

8. Included in the body of this report.

Background Papers

9. None

Impact

| | |
|---------------------------------|---|
| Communication/Consultation | Cross-Essex collaboration through the Essex Finance Officers Association. |
| Community Safety | No specific issues. |
| Equalities | No specific issues. |
| Health and Safety | No specific issues. |
| Human Rights/Legal Implications | No specific issues. |
| Sustainability | No specific issues. |
| Ward-specific impacts | No specific issues. |
| Workforce/Workplace | No specific issues. |

Background

10. Under the new system of local business rate retention some authorities collect more rates than the government has determined they need to fund their activities and these authorities are required to pay over the excess to central government. Therefore authorities that normally raise more business rate income than what the government thinks it requires will pay a **tariff**. Most district councils are in this position. Authorities that normally raise insufficient business rate income in their own area get payments from central government and are known as **top up** authorities. The most common group of authorities receiving top ups are county councils.

11. If during the year the authority unexpectedly ends up with a reduced level of business rate income following the tariff/top up adjustments and this is below the amount which government has determined they need to fund their activities, that authority would receive a safety net payment. The Council does not forecast to be in a Safety Net position in 2016/17 and 2017/18.
12. Where an authority sees growth in its business rate income it has to pay a proportion of that growth to central government as a **levy**. The levy rate for the Council is **50%** and so this is the effective amount of growth that districts (including UDC) will be able to retain if they do not pool.
13. The advantage that comes from pooling is the inclusion of a large top up authority in the levy calculation, which substantially boosts the baseline funding level relative to the business rates baseline. The ultimate intention is to reduce the levy rate as far as possible and hence pay reduced levy to central government. Based on the proposed business rate pool membership the levy rate will be zero. This means that the pool will not need to pay any levy to central government and will share the benefits across the members of the pool.

Current and proposed members of the business rate pool

14. There are 11 local authorities who are forecasting business rates income which is above the set safety net level. Therefore they will contribute positively to the pool and have shown an interest in the pool, these authorities are as follows:

| Authority | 2015/16 Member? | 2016/17 Proposed Member? |
|----------------------|------------------------|---------------------------------|
| Essex County Council | Yes | Yes |
| Essex Fire Authority | Yes | Yes |
| Basildon | No | No |
| Braintree | Yes | Yes |
| Brentwood | Yes | Yes |
| Castle Point | Yes | Yes |
| Chelmsford | Yes | No |
| Colchester | Yes | Yes |
| Epping Forest | Yes | Yes |
| Harlow | No | No |
| Maldon | No | Yes - tentative |
| Rochford | Yes | Yes |
| Tendring | Yes | Yes |
| Uttlesford | No | Yes - tentative |
| Southend-on-Sea | No | No |
| Thurrock | No | Unclear |

Distribution of the funds

15. It is proposed that the Essex region pool distributes its funds on a 'no worse off' basis. Each member authority will receive the same payments it would have received as if it were not in the pool, subject to available resources within the pool.
16. The balance of the Business Rates income after the payment of the administration costs to the Lead Authority and any safety net payments will be distributed as follows:

Any surplus remaining after payment of the pool levy will be distributed as follows:

 - 25% of the net gain will be distributed using each authority's baseline funding level, and
 - 25% of the net gain will be distributed using each authority's local share of Business Rates income
 - 50% of the net gain will be distributed on the growth in Business rates income achieved in each District.
17. The distributed surplus for an authority which pays a tariff will be capped at the amount of levy the authority would have had to pay if they were not in the pool. Any remaining surplus will be distributed to the remaining authorities on the same basis as above.
18. It is possible, although very unlikely for a net loss to occur. Where the pooling of the Business Rates income results in a net loss, this will be funded by the member authorities as follows:
 - 50% using each Party's baseline funding level, and
 - 50% using each Party's Gross contribution to the pool

Forecast Benefits of pooling

19. If the pool proceeds with the authorities listed in point 14 for 2016/17 pool membership, including Maldon and Uttlesford it is forecasted that it will raise £4.47m and there will be no levy payments to central government. The membership of the pool produces an accumulated baseline funding level being greater than the sum of the business rates income as per 2013/14 data and therefore ensures that the pool will pay a zero percent levy.
20. In this case Uttlesford would pay the pool £0.52m with a levy rate of 50% as it would have done under current arrangements to central government. The pool will not need to pay this to central government and based on the agreed distribution stated above UDC will receive 7% of the £4.5m. This equates to £0.32m and in effect it will eventually pay £0.2m to the pool instead of the £0.52m highlighted above. Please see Appendix A for details which also provide data in the event Maldon District Council decides not to be part of the pool.

21. If at year end Uttlesford unexpectedly ends up in a safety net position and the pool has the financial resources to contribute fully towards the safety net payment the council will be in the same situation had it not entered the pool. The main risk is if the pool does not have the financial resources to make all safety net payments to members of the pool.

Risks to consider

22. Essex business rates pool success depends on levy contribution from members of the pool. Therefore if authorities anticipate a safety net position they are encouraged to not join the scheme in order to optimise the financial surplus in the pool. For 2016/17 financial year Chelmsford City Council forecasts a safety net position and therefore has not put itself forward for the 2016/17 business rate pool. The higher the numbers of authorities which unexpectedly end up in a safety net position the less income there will be to distribute across members of the pool. If the total pool is in a net loss then the Council can potentially end up in a much worse position.

23. For Uttlesford to end up in a safety net position it will need to lose an additional 7% in business rate income which equates to approximately £2.8m of the total business rate income collectable. Please see Appendix B.

24. In total members of the pool will need to lose £28m in order for the pool to end up in a safety net position which appears to be highly unlikely but not impossible if councils had to place provisions for appeals in the way they did during 2013/14 financial year.

25. The Council expects that all disputed appeals and other issues impacting the business Rateable Values will be settled and provisions will be recognised prior to 2016/17 year. This will ensure that the retained income of the Council in 2016/17 is not reduced to levels that will put itself and other districts into a safety net position.

Next Steps

26. The following are the next steps to progress the pooling proposal:

| | |
|--------------------------------|--|
| 22 October | UDC Cabinet meeting – update on progress and confirmation of agreement to join a pool, subject to this being in UDC’s interests |
| 30 October | Pooling proposal to be submitted to DCLG by Essex County Council |
| November | DCLG to consider proposals and issue “designations” to authorise the approved pools. |
| Late November / early December | 2016/17 provisional Local Government Finance Settlement issued Each authority then has 28 days to withdraw from the pool. In the event of any authority withdrawing, the DCLG designation |

| | |
|---------|--|
| | would be revoked, and the pool would not go ahead. |
| 1 April | Commencement of pooling arrangement. |

Dissolution of the Pool

27. The membership in the pool is on a voluntary basis and any member authority will be able to leave the pool at the end of the financial year.
28. A member authority that wishes to leave the pool must notify the other pool members of their intent no later than six months prior to the beginning of the next financial year to allow remaining members sufficient time to reconsider continuation of the pool.
29. If it is determined that the pool will be dissolved, any accumulated funds will be distributed on the basis of the net gain distribution as described in point 16.

Conclusion

30. Under current arrangements and forecast the council expects to benefit from being part of the Essex business rate pool. The major concern and risk which the council and other members of the pool need to consider is the unexpected situation when an authority receives less than expected business rates income and ends up in a safety net position.
31. The Council does not forecast or expect significant loss in business rate income for the pool such that it will end up in a financial position that would be worse than had it opted out of the pool.
32. In general Local Authorities in the Essex region recognise that by pooling together it can retain a greater proportion of any business rate growth within the pool area. This will provide Councils with an opportunity to promote and encourage further economic growth within this area.
33. Therefore to summarise it is forecasted that UDC will be £0.32m better off by joining the pool.
34. The proposal commands wide political support and is entirely consistent with the Localism Agenda.

Risk Analysis Table

| Risk | Likelihood | Impact | Mitigating actions |
|---|---|---|---|
| There is a risk that by not pooling business rates, UDC is not maximising its | 2 (setting up the pool will be a challenging process) | 3 (loss of funds to Central Government) | Collaborative working to investigate opportunities for setting up a pool. The risk to each authority |

| Risk | Likelihood | Impact | Mitigating actions |
|--|---|---|---|
| income. | | | is limited by the scheme being constructed such that no authority can be worse off than if they had remained outside the pool. |
| The pool will not have the resources to make safety net payments | 1 (significant amount of income will need to be lost) | 3 (contribution to the pool from council general fund) | The financial position will be reviewed again after the Local Government Settlement figures are released as part of the Autumn Review |
| Difficulties gaining cross-Essex agreement on pooling principles | 2 (up to 11 partners potentially involved) | 3 (the beneficial effects of pooling may be diminished) | Strong leadership by senior members and officers Flexibility on the membership of any proposed pool |

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.