EAST SUSSEX FIRE AUTHORITY

URGENCY PANEL

THURSDAY, 3 JANUARY 2019 at 10:00

MEMBERS

East Sussex County Council

Councillors Barnes, Dowling, Elford, Lambert, Scott

Brighton & Hove City Council

Councillors O'Quinn, Theobald

You are requested to attend this meeting to be held at East Sussex Fire & Rescue Service Headquarters, Church Lane, Lewes at 10:00.

AGENDA

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29	-	In relation to matters on the agenda, seek declarations of interest from Members, in accordance with the provisions of the Fire Authority's Code of Conduct for Members.
30	-	Apologies for Absence.
31	-	Notification of items which the Chairman considers urgent and proposes to take at the end of the agenda/Chairman's business items. (Any Members wishing to raise urgent items are asked, wherever possible, to notify the Chairman before the start of the meeting. In so doing they must state the special circumstances which they consider justify the matter being considered urgently).
32	11	Business Rates Retention Pilot – Report of the Assistant Director Resources/Treasurer (*to follow*)

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33	-	Exclusion of the Press and Public. To consider whether, in view of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the remainder of the meeting on the grounds that, if the public and press were present, there would be disclosure to them of exempt information. NOTE: Any item appearing in the confidential part of the Agenda states in its heading the category under which the information disclosed in the report is confidential and therefore not available to the public.
34	3	Confidential Minutes of the last Urgency Panel meeting held on 6 August 2018 (Exempt category under paragraph 3 of the Local Government Act 1972)

ABRAHAM GHEBRE-GHIORGHIS
Monitoring Officer
East Sussex Fire Authority
c/o Brighton & Hove City Council

Date published: 21 December 2018

Agenda Item No. 32

EAST SUSSEX FIRE AND RESCUE SERVICE

Meeting	Urgency Panel
Date	3 January 2019
Title of Report	Business Rates Retention Pilot
By	Assistant Director Resources/Treasurer

Background Papers	Fire Authority - 6 September 2018 – Item 55 – Strategic Service Planning and Medium Term Finance Plan 2019/20 Business Rates Retention Pilot Prospectus 2019-20 (MHCLG) Provisional Local Government Finance Settlement 2019-20 (MHCLG)

Appendices	None

Implications

CORPORATE RISK	✓	**LEGAL**	✓
ENVIRONMENTAL		**POLICY**	
FINANCIAL	✓	**POLITICAL**	
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	
EQUALITY IMPACT ASSESSMENT			

PURPOSE OF REPORT

To agree to participate in the East Sussex Business Rates Pilot for 75% business rates retention for 2019/20.

EXECUTIVE SUMMARY

MHCLG published the Business Rates Retention Pilot prospectus: Invitation to Local Authorities in England for 75% business rates retention in 2019-20. East Sussex Finance Officers were asked by Leaders and Chief Executives to consider making a bid for the pilot for the existing East Sussex Business Rates Pool.

As part of the Provisional Local Government Finance Settlement MHCLG confirmed that the East Sussex Business Rates Retention Pilot bid had been successful. There is a 28 day consultation period during which any Member of the proposed Pilot may withdraw, however if it does the Pilot will fail and the partners will not be able to continue with the existing Business rates Pool.

The total additional gain from the Pilot over the existing Business Rates Pool is estimated at £4.3m, with the Fire Authority potentially gaining £0.550m in total. The report sets out the risks resulting from the proposal and the proposals for splitting the gains between financial stability and economic development.

RECOMMENDATION

The Panel is recommended to:

1. agree that Wealden District Council be nominated as the lead authority;

2. agree that East Sussex Fire Authority participates in the East Sussex Business Rates pilot for 2019/20 resulting in an anticipated gain of £0.250m over current pooling arrangements (i.e. £0.550m in total);

3. agree that the basic principle be agreed that no authority will receive a lower level of funding than they would have received without the pool;

4. agree to split resources gained on the growth in business rates on the basis of the split being 26% to East Sussex County Council, 5% to the Fire Authority and the remaining 44% split amongst the District/Borough Councils;

5. agree the financial stability and economic development split of funding as set out in paragraph 5.4;

6. agree that additional income to the Fire Authority is transferred to earmarked reserves whilst investment plans are developed, and

7. authorise the Assistant Director Resources/Treasurer, after consultation with the Chief Fire Officer and Monitoring Officer, to sign the Memorandum of Understanding on behalf of the Authority and to take such other steps as are necessary to give effect to the foregoing recommendations.

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1 INTRODUCTION

1.1 A new funding regime was introduced on 1 April 2013 whereby local authorities effectively retain a proportion of any additional business rate income collected (above inflation) or conversely will experience a reduction in resources if the business rate base declines.

1.2 Under the scheme 50% of business rates is localised through a system of top-ups and tariffs that fix an amount to be paid by high yield authorities and distributed to low yield authorities – this amount being increased annually by inflation (RPI). The proportion retained by individual collection authorities in East Sussex is 40%, 9% is payable to East Sussex County Council, and 1% to Fire and Rescue authority (the government receive 50%).

1.3 The 50% central government share is distributed through the formula grant process (now termed Settlement Funding Assessment) – thus enabling the government to control the overall amount received by local authorities. Where there is disproportionate growth this will be used to provide a safety net for those authorities experiencing little or negative growth and allows the treasury to top slice business rates income. A reset mechanism will be in place with the first reset in 2020 and periods of 10 years between resets thereafter.

1.4 On Tuesday 24 July 2018 MHCLG published the Business Rates Retention Pilot prospectus: Invitation to Local Authorities in England for 75% business rates retention in 2019-20. East Sussex Finance Officers were asked by Leaders and Chief Executives to consider making a bid for the pilot for the existing East Sussex Business Rates Pool.

1.5 On Tuesday 11 December as part of the Provisional Local Government Finance Settlement MHCLG confirmed that the East Sussex Business rates Retention Pilot bid had been successful. There is a 28 day consultation period during which any Member of the proposed Pilot may withdraw, however if it does the Pilot will fail and the partners will not be able to continue with the existing Business rates Pool.

2 <u>TOP UPS, TARIFFS AND LEVY</u>

2.1 These are set that, all things being equal, an authority will have started with the same resources under the new system as it had under the old. Thus if a local authority collects £20m in non-domestic rates and received £8m in formula grant it will pay a tariff of £12m.

2.2 The top ups and tariffs will automatically be updated for inflation. This gives top-up authorities e.g. East Sussex Fire Authority, a guaranteed increase in part of their resources and means a tariff authority, such as a District or Borough will lose resources unless it ensures its NNDR growth at least keeps pace with inflation.

2.3 For each 1% increase in the business rates base, the authority will see no more than a 1% increase in income as measured against its spending baseline, i.e. a 5% increase in non-domestic rates would give a 5% increase in retained Business Rates relevant to the base line.

3 <u>PILOT APPLICATION</u>

3.1 A report on the potential for East Sussex being a 75% Business Rates Retention Pilot was first considered by Chief Executives/Directors of respective Councils and the Fire Authority where it was agreed unanimously that an application should be submitted on the basis of the arrangements and recommendations outlined in this report.

3.2 The Pilot is for the 2019/20 year only as Government has indicated that it intends to pursue 75% Business Rates Retention, which it can do within existing legislation, alongside the business rates reset and introduction of the Fairer Funding Formula.

3.3 The prospectus stated "The government is interested in exploring how 75% rates retention can operate across more than one authority to promote financial sustainability and to support coherent strategic decision-making across functional economic areas. Accordingly, the government would like to see authorities form pools (either on existing or revised boundaries) and, with agreement in place from all participating authorities, to apply jointly for pilot status. We would expect a proposed pool to comprise a county council and all of the associated district councils; a group of unitary authorities; or a two-tier area and adjoining unitaries, but it should extend across a functional economic area. Proposals will need to set out tier split arrangements of all precepting authorities, including Fire and Rescue authorities."

3.4 The invitation includes the following key points:

- The pilot programme for next year may be smaller than 2018-19 given the limited time before the system moves to 75% retention;
- The 'no detriment' clause that applied to previous pilots will not apply to the 2019-20 pilots. Instead, selected areas will test a 95% safety net to reflect increased risk in the proposed increased business rates retention system. Applying a 'no detriment' clause to the pilots would not be reflective of the reformed business rates retention system that the government aims to introduce in 2020/21;
- Applications should include details of what pooling arrangements (if any) authorities would like to pursue in the event that their pilot bid is unsuccessful. Where pooling arrangements are to apply in the event of an unsuccessful bid and where these are different from those that would apply were the bid successful, the application should provide assurance that there is agreement to those arrangements from all local authorities involved in the proposed pool.

3.5 As part of the move towards a reformed business rates retention system in 2020/21, the intention remains to devolve Revenue Support Grant (RSG), Rural Services Delivery Grant (RSDG), the Greater London Authority (GLA) Transport Grant and the Public Health Grant (PHG) when the new system commences. However, successful pilots in 2019-20 will only be expected to forego RSG and RSDG. It is intended that the intervening period will be used to develop a set of measures that support a smooth transition of funding for public health services from grant funding to retained business rates.

3.6 A company called LG Futures has been employed to collate and advise on the financial viability of the scheme, modelling some of the risks and identifying appropriate governance arrangements

3.7 For the 2018/19 financial year, the County Council, Districts and Boroughs and the Fire Authority are in a Pool. This brings additional resources to the County area as it allows the pool to retain the levy otherwise charged on business rates.

Under this arrangement, the retained levy (which is equal to 20% of the total growth) is split 40:50:10 across the County Council: Districts and Boroughs: Fire Authority respectively. The split of this gain within a pool area is agreed locally. Without a pool the 50% retained rates would be split 9:40:1 respectively, with Districts and Boroughs having to pay 50% of their growth back to central government.

Table 1. - Current Pooling Gains

	Forecast Income £m	**Pooling Gain Redistributed £m**
	NNDR1 18/19	**18/19 Pool Calculation**
Eastbourne BC	15.6	0.3
Hastings BC	9.4	0.1
Lewes DC	11.0	0.3
Rother DC	8.4	0.3
Wealden DC	14.7	0.6
East Sussex Fire	1.5	0.3
East Sussex CC	13.3	1.3
TOTAL	**73.9**	**3.2**

Table 2. - Potential Pilot Gains

	Current Pool Split with levy	**Split**	**Pilot Income 2019/20 £m**	**Pilot Gain**
Eastbourne BC	30%	44%	5.0	0.5
Hastings BC			5.1	0.1
Lewes DC			3.2	0.4
Rother DC			3.4	0.4
Wealden DC			4.7	0.8
East Sussex Fire	3%	5%	8.0	0.3
East Sussex CC	17%	26%	81.8	1.7
TOTAL	**50%**	**75%**	**111.2**	**4.3**

3.8 In brief the financial case for a pilot bid is compelling. The pilot proposal for 2019/20 does not include a ‘no detriment’ clause. The pilot retention percentage relates to growth only, not all rates. When agreeing to become a pilot, grant income relating to RSG and RSDG will be rolled in for East Sussex. Therefore the risk is that retained growth does not cover the guaranteed grant income and the area could be worse off than if it operated under 50% arrangements. It should be noted that these estimates are based on NNDR1 figures for 2018/19 – estimates for 2019/20 will not be available until the end of January 2019. Historically actual income from Business Rates as confirmed in NNDR3 returns have been lower than the NNDR1 estimate.

3.9 The businesses in East Sussex are largely supermarkets and retail and there is no one single or few large hereditaments that make up the yield. This means that for East Sussex there would have to be a national event for business rates to fall significantly.

4 APPOINTING A LEAD AUTHORITY

4.1 A lead authority needed to be named in the application. It has already been agreed that LG Futures will be contracted to advise the pool in 2019/20 (should an application be successful), and this will also provide a degree of objectivity and impartiality for all parties. The very limited costs being shared equally between the seven authorities.

4.2 Wealden District Council is the lead authority for the current pooling arrangement and has indicated that it would be prepared to undertake the role of lead authority for the 75% Pilot. The administration work is expected to be minimal but the lead authority will need to liaise with MHCLG on the lessons of the pilot and respond to information requests. This will be reflected in an enhanced administration fee to be levied on the retained rates. It is therefore recommended that the Fire Authority agree that Wealden District Council be nominated as the lead authority.

5 SPLITTING THE GAINS AND LOSSES FROM POOLING

5.1 The allocation of resources will be based on the following principles:

- Each individual authority, if resources allow, will receive at least the same level of funding they would have received without the 75% Pool (i.e. authorities acting as a 50% pool).
- 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.

5.2 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 paid to them on a pro rata basis (based on the increased resources from being in the pool).

(b) If after (a), there are still resources to be distributed, then authorities will retain their own growth, based on the following local shares:

Table 3. - Local tier splits

Tier	Proportion
County	26%
District	44%
Fire	5%
Total	**75%**

(c) Where the pool makes a loss, the loss will be funded by each Pool Member proportional to the cash amount that would have been received from central government if the Pool arrangement was not in operation from the business rates retention scheme.

5.3 It should be noted that whilst the 5% share proposed for the Fire Authority is lower than the 10% share under the current Pool, it is higher than that assigned to other Fire Authorities who are part of Pilot proposals. This does potentially expose the Authority to a higher level of risk from Business Rates volatility however this risk is mitigated to an extent by the principles set out in paragraph 5.1 and the analysis set out paragraphs 3.8 and 3.9. The balance is that it provides a proportionately higher share of the Pilot benefits and a greater incentive to engage collaboratively in activity aimed at promoting economic growth. It is likely that MHCLG will monitor the success of this approach closely during the Pilot and when designing the national 75% BRR scheme for 2020/21 onwards.

5.4 The government also have an expectation that pilot Authorities will demonstrate how they will use the gains to benefit their local area. In relation to the East Sussex Business Rates Pilot the Chief Finance Officers recommend the following:

- Financial Stability Element – this will be the equivalent of the 50% gain under the current pooling arrangements;
- The Economic Development Element – this will be the 25% additional gain from the Pilot.

5.5 This results in the following share for the Fire Authority:

- Financial Stability = £0.480m (existing Pool £0.300m plus Pilot £0.180m)
- Economic Development = £0.070m
- Total Share = £0.550m (please note the Pilot element of £0.250m is rounded to £0.3m in table 2 giving an overall total of £0.6m)

5.6 When the forecast income from the existing Pool is included this gives a potential additional income of £0.550m for the Fire Authority split between Financial Stability (£0.480m) and Economic Development (£0.070m). The Fire Authority will have greater flexibility in how in how it utilises its share of the Pilot income than under the current Pooling arrangement which requires 100% of the additional income to be spent on activity to support economic development / business growth. The recommendation of the Chief Finance Officers is that the County Council and the Fire Authority commit to spending the Economic Development income in the District or Borough from which it was derived.

5.7 For example Wealden has requested that the Fire Authority consider committing £20,000 towards work on Hailsham Town Centre regeneration. This could potentially align with the existing One Public Estate Project for Hailsham and the need to consider the impact of the Wealden Local Development Plan (which includes significant growth in residential and commercial properties around

Hailsham and Polegate) on our operational response in the area, specifically the current single pump retained station in Hailsham, through the Integrated Risk Management Plan (IRMP) and the Operational Response review currently under development.

5.8 Given the nature of the income from the Pilot, being for one year only and potential volatility, it is proposed that it is not used to fund ongoing services in 2019/20 but is transferred into earmarked reserves whilst proposals for its use are developed for 2020/21 onwards.

6 PILOT ANNOUNCEMENT

6.1 On Tuesday 11 December as part of the Provisional Local Government Finance Settlement MHCLG confirmed that the East Sussex Business Rates Retention Pilot bid had been successful. Should one authority decide to withdraw then the Pilot bid and the current Pooling arrangement both fall and the Councils would revert to the full levy being payable on gains resulting in a net loss of over £2m across East Sussex. Any decision must be made within the 28 day consultation period. It is recommended that the Panel confirm that the Fire Authority will participate in the Pilot.

7 LEGAL IMPLICATIONS

7.1 Rates Pooling is permitted by virtue of Part 9, Schedule 7B, Local Government Finance Act 1988 as amended. Lead Authority designation is a requirement of Paragraph 35 (1) (a) of Part 9, Schedule 7B, Local Government Finance Act 1988 as amended.

7.2 The current Pool is governed by a Memorandum of Understanding (MoU) and it is proposed that a new MoU is developed for the Pilot which will encapsulate the principles set out in this report and the operational governance of the Pilot. It is recommended that the Panel authorises the Assistant Director Resources/Treasurer, after consultation with the Chief Fire Officer and Monitoring Officer, to sign the Memorandum of Understanding on behalf of the Authority and to take such other steps as are necessary to give effect to the other recommendations in this report.

8 RISK MANAGEMENT

8.1 The key risk revolves around the reduction in the business rate taxbase. This could arise as a result of recession, companies closing down, or the level of rating appeals that are still outstanding resulting in larger than estimated reductions in rateable values. The report by LG futures considers that the risks to the pool of an overall loss from losing two of the highest rate payers for a region, without warning, and for a whole year, as unlikely. Likewise, in terms of the economic picture, this is currently improving with growth in the business rates base being forecast locally in 2019/20. The principles set out in paragraph 5.1 provide mitigation in the absence of the no detriment guarantee from MHCLG.