

## Urgent Decision under Delegated Powers

### Participation of Charnwood Borough Council in the Leicester and Leicestershire Business Rates Pool for 2015/16

#### Officer Making the Decision

Simon Jackson

#### Recommendations

1. That Charnwood Borough Council's participation in the Leicester and Leicestershire Business Rates Pool for 2015/16 be confirmed through this decision **not to inform** the Government that the Council wishes to withdraw from the previous expression of interest to form the Pool within the 28 day period for doing so.
2. That, as the matter is urgent, the call-in procedure be suspended in accordance with Scrutiny Procedure 11.9 of the Council's Constitution.

#### Reasons

1. The Council's participation in the Pool will facilitate an estimated £2.6m being made available to the Leicester & Leicestershire Economic Partnership rather than being remitted to the Government.
2. To allow the Council's assent to membership of the Pool to be given within the required deadlines.

#### Authority for Decision

Section 8.3 of the Council's Constitution delegates the Chief Executive, Strategic Directors and Heads of Service to take such action as is required in the case of an emergency or urgency subject to:

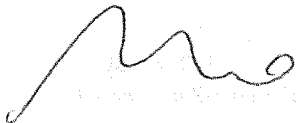
- (i) consultation with the Leader (or, in the Leader's absence, the Deputy Leader) in the case of Executive functions;
- (ii) consultation with the Chief Executive and relevant Strategic Directors in each case; and
- (iii) a report on the action taken being made to the next meeting of the Cabinet in the case of Executive functions.

The above consultations have taken place. A report setting out the actions taken will be presented at the Cabinet meeting of 12th February 2015.

### **Reason for Urgency**

The deadline for submission of expressions of interest to the Government for forming a pool is 18th January 2015 and officers across the county will decide whether to do so at a meeting of the Leicestershire Treasurers Association on 9th January 2015. If the decision was called in under Scrutiny Procedure Rule 11.7 then the decision on whether the Council should join any pool would be delayed beyond the Government's deadline. Therefore, it is proposed that the decision be exempt from call-in in accordance with Scrutiny Procedure 11.9. The Chair of the Scrutiny Management Board has given his consent to this and agreed that the decision is both urgent and reasonable and that the delay caused by the call-in process would not be in the interests of the Council or the public.

### **Decision and Date**



Simon Jackson

*Strategic Director of Corporate Services and s151 Officer*

16 January 2015

### **Background**

#### Introduction

1. The calculation of the Council's income from its retained share of business rates (NDR) is somewhat technical in nature. However, in broad terms the way the calculation works is as follows:
  - The Government inform the Council of the amount of funding it can expect to receive from its share of retained NDR within the local government finance settlement
  - Within this settlement the Government also sets the Council a NDR collection target, (or 'baseline') which must be achieved for the Council to receive its expected NDR income
  - If the Council's collection of NDR exceeds the baseline amount then a *proportion* of the additional income collected may be retained; the balance of additional income (50% in the case of Charnwood) is paid over to the Government

- Conversely, if the NDR collection falls short of the baseline then Council will suffer a shortfall in income
2. In a pooling arrangement the calculations treat all pool members as a single entity. In the prospective Leicester & Leicestershire NDR pool the impact of pooling is that:
    - If collection of NDR across all authorities exceeds the total of the baseline amounts then *all* of the additional income may be retained within the participating authorities, rather than a proportion of this money being remitted to the Government
    - However, if NDR collections are significantly below the baseline across all authorities then individual councils may be worse off than they would otherwise have been as stand-alone local authorities
  3. Illustrative calculations setting out how NDR funding works in more detail are set out in the Cabinet report of 27th September 2012, 'Business Rate Pooling', which is listed as a background paper.
  4. Projections prepared in early January 2015 suggest that, as an entity, the Pool would generate a surplus that can be retained within the participating authorities in the order of £2.6m; this is clearly attractive.

#### Pooling agreement and members of the Pool

5. The prospective pooling arrangement would have the following features:
  - The lead body would be Leicestershire County Council
  - Generally, all participating local authorities could expect to receive the same amount of income that they would have received as if they were operating as a stand-alone authority
  - Any surpluses generated (ie. monies that would otherwise be remitted to the Government) would be first used to create a 'reserve', or safety net, to offset future pool shortfalls; any further amounts would then be remitted to the Leicester & Leicestershire Economic Partnership (or LLEP) to fund growth projects within the sub-region.
  - If the NDR collections were particularly poor right across Leicestershire then insufficient pool income may be generated to put all authorities in the position they would otherwise have been had they been operating as a stand-alone authority; in this event the shortfall would be shared in proportion to baseline NDR collections and funding requirements

- In order to reduce the risk of funding shortfalls it is proposed that the surplus of £0.7m from the previous pooling arrangement (discussed below) be used to create a safety net fund for this eventuality
- Monitoring of pool performance and forecast outturns will be managed through the Leicestershire Treasurers Association; each participating body is represented by its Chief Financial Officer (Section 151 Officer) at this forum

#### History of Business Rates (NDR) pooling in Leicestershire

6. A Leicestershire NDR pool was created for the 2013/14 financial year, the first year of the new local government financing regime. Outturn forecasts had considerable volatility throughout the year but the final outturn of a £0.7m surplus was in fact in line with the initial estimates.
7. In the autumn of 2013, and in the light of the volatility of the outturn forecasts for 2013/14, the Leicestershire Treasurers Association concluded that they could not recommend the continuation of the Pool into 2014/15. However, latest forecasts suggest that if the pool had continued then a surplus in the order of £3m might have been generated for distribution to the LLEP.

#### Risks of Pooling

8. In principle, it should be expected that NDR collections on a Pool basis should be less volatile than those of individual authorities due to the portfolio effect – ie. We could expect that bad years experienced by some authorities would generally be offset by good years in others. However, due to the way the pooling calculations work, there are scenarios where the operation of a Pool does expose participating authorities to additional risk. This is where NDR collections are poor across all (or most) participating authorities and 'safety net' payments that would have been received from the Government by individual authorities are foregone in a Pool arrangement.
9. Additional risk scenarios identified are:
  - 9.1 An economic downturn that creates a general climate of business failure across the sub-region.
  - 9.2 Changes in baseline NDR collection targets set by the Government or other changes in the regulations that impact the way the Pooling calculations work.
  - 9.3 A glut of NDR valuation appeals settled in favour of appellant businesses. It is known that the Valuation Office has a significant backlog of cases going back several years which they

are committed to clear by July 2015. If settled within a short period of time it is possible that the weight of settlements could adversely impact all authorities.

10. In mitigation it may be noted that:
  - 10.1 General economic prospects are uncertain but economic growth is expected in the UK in the medium term
  - 10.2 Changes to baseline NDR collection targets, if any, will be identifiable in the local government finance settlement. Similarly, changes in regulations should also be identifiable. If these changes appear to have an adverse impact on a prospective NDR pool for the ensuing financial year the opportunity exists to withdraw from any pooling arrangement at that stage.
  - 10.3 NDR valuation appeals are a difficult area due to the extensive backlog of cases and limited history of appeal results available within local authority areas (underlying IT systems were simply not designed to capture this type of information); however, all local authorities within the prospective Leicester and Leicestershire NDR pool maintain significant provisions to offset the impact of successful appeals.
11. More generally, it may be noted that it is intended that the £0.7m surplus generated from the 2013/14 Pool is available to create a reserve against future Pool deficits.
12. As noted above, the monitoring of pool performance and forecast outturns will be managed through the Leicestershire Treasurers Association.

### **Financial Implications**

There are no direct financial implications arising from this report. However, entering into a NDR pooling arrangement may carry some financial risk, as noted above.

### **Risk Management**

The risks associated with this decision and the proposed actions to mitigate those risks are set out in the table overleaf.

<i>Risk Identified</i>	<i>Likelihood</i>	<i>Impact</i>	<i>Risk Management Actions Planned</i>
The Council is financially disadvantaged due to entering into a NDR pooling agreement	3 - Possible	3 - Moderate	<ul style="list-style-type: none"> <li>Final decision on whether to proceed with pooling will be informed by detailed financial settlement and baseline details</li> <li>A reserve of £0.7m exists allowing pool members to be compensated if they suffer a financial impact in excess of what they would have experienced if operating outside the pool</li> </ul>

Key Decision: Yes

Date included in the forward plan of key decisions and decisions to be taken in private by Charnwood Borough Council's Executive: 17th December 2014

Background Papers: Cabinet report of 27th September 2012 on Business Rate Pooling  
[http://www.charnwood.gov.uk/files/papers/cab\\_27\\_september\\_2012\\_item\\_10\\_business\\_rates\\_pooling/Cab%207%20September%202012%20Item%2010%20Business%20Rates%20Pooling.pdf](http://www.charnwood.gov.uk/files/papers/cab_27_september_2012_item_10_business_rates_pooling/Cab%207%20September%202012%20Item%2010%20Business%20Rates%20Pooling.pdf)