

Report to: **Executive**

Date: **14<sup>th</sup> September 2017**

Title: **Business Rates Pilot for 2018/19 and Pooling arrangements for 2018/19**

Portfolio Area: **Cllr Tucker – Strategic Budget Setting Process**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny Panel**

Urgent Decision: **N** Approval and clearance obtained: **Y**

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**Recommendations:**

It is recommended that the Executive recommends to Council:-

- (i) To apply to become a business rates pilot for 2018-19, as part of a Devonwide business rates pilot bid, to pioneer new pooling and tier-split models
- (ii) To delegate to the S151 Officer, in consultation with the Leader, Deputy Leader and Head of Paid Service, to agree the detail of the business rates pilot bid (in conjunction with Devon Local Authority S151 colleagues) with respect to the financial aspects and overall governance of the pilot bid
- (iii) That in the event of the Devon pilot bid being unsuccessful, South Hams District Council applies to re-join the Devon Business Rates Pool for 2018-19.

## **1. Executive summary**

- 1.1 At the meetings of the Devon Local Government Steering Group and Devon District Forum on 14 July 2017, the eight Devon Districts, Devon County Council, Plymouth City Council and Torbay Council all agreed “in principle” to submit an application to be a pilot for 100% business rates retention, if a formal invitation from the Government Department for Communities and Local Government (DCLG) was received.
- 1.2 On 1 September, an invitation to apply to become a business rates pilot for 2018-19 was issued by the Government. The deadline for applications is 27 October 2017. If successful, the pilot would begin 1st April 2018.
- 1.3 Local Government Futures are specialists in Local Government finance who assisted Devon Councils in setting up the Devon business rates pool. They have undertaken some modelling for the Devon Business Rates Pool which indicates that Devon authorities would benefit financially from being a pilot.
- 1.4 Based upon historic and forecast levels of business rates income, LG Futures have suggested that the Devon Pool could benefit by somewhere in the region of between £10m to £16.9m by becoming a pilot in 2018/19. An agreement would need to be reached between all of the Devon Authorities as to how these projected gains would be shared between the eleven Authorities in the pilot.
- 1.5 The Devon S151 Officers will meet in September to make recommendations to their Councils on how the gains could be shared. Early thoughts are around a formulaic approach that could, for example, see a fixed amount being paid to all the Councils in the pilot. Additional gains could be distributed based on the level of business rates growth in individual Council areas, above that of the business rates baseline, but this detail has not yet been worked up. It should be noted that all Devon authorities would need to continue to be part of the Pilot if this estimated gain is to be achieved.
- 1.6 South Hams would have to forego the Rural Services Delivery Grant that it was due to receive in 2018-19 which is £251,886, if it was part of a pilot. However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.
- 1.7 The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). The invitation to be a pilot states that the 2018/19 pilot programme will last for one year only. Even though the additional funding is only short-term additional funding (for one year), it would allow the Council time for longer term options for achieving financial stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21. This pilot is too uncertain at this stage to be seen as a

solution to closing that gap and this income is only for one year (it is not recurring year on year income).

- 1.8 For the 2017/18 pilots the Government has agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. This is not necessarily the case for 2018/19 pilots. The Government has said that proposals for the 2018/19 pilots will need to include details of how authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 pilots programme does not include a 'no detriment' clause.
- 1.9 DCLG is not confirming one way or another whether there will be a "no detriment" clause. This increases the risk for 2018-19 pilots, but the level of gains predicted for a Devon pilot should give a sufficient safety blanket against this.
- 1.10 It is recommended by the S151 Officer that South Hams District Council applies to become a business rates pilot for 2018-19, as part of a Devonwide business rates pilot bid.
- 1.11 If the pilot bid is unsuccessful, it is recommended that South Hams applies to re-join the business rates pool for 2018-19. South Hams has a forecast levy of £0.6 million for 2018-19 and this would be retained in the Devon area if South Hams were in the pool. The forecast pooling gain (SHDC's share) is in the region of £100,000.

## **2 BUSINESS RATES RETENTION (100% BRR)**

- 2.1 In October 2015 the Government announced its commitment that local government should retain 100% of business rates raised locally. This would amount to an additional £12.5 billion of revenue from business rates for the local government sector.
- 2.2 The Government also said any reforms to business rates would be fiscally neutral and in addition to delivering its existing responsibilities local government would take on new responsibilities to reflect any additional tax income.
- 2.3 The Government's intention had been to introduce the new system of 100% Business Rates Retention from April 2019. A Local Government Finance Bill was due to be presented to Parliament giving the statutory powers for 100% Business Rates Retention (BRR). However this bill was omitted from the Queens Speech on 10 June.
- 2.4 DCLG have confirmed there are no current plans for resurrecting or re-introducing the provisions of the Bill which means the introduction of 100% retention is unclear in terms of its timescale. A DCLG statement said: "The government is committed to delivering the manifesto pledge

to help local authorities to control more of the money they raise and will work closely with local government to agree the best way to achieve this.”

### **3 BUSINESS RATES RETENTION (BRR) PILOTS FOR 2018-19**

3.1 The key elements of the new system are:

- All authorities have been invited to participate as a business rates pilot for 2018/19;
- The system will not have a levy on growth;
- Top Ups and Tariffs will remain and there will be a Safety Net of 3%;
- Appeals following revaluation will be paid for centrally, using a top-slice of business rates income;
- Revenue Support Grant, Rural Services Delivery Grant, Public Health Grant and the GLA Transport grant will all be funded through 100% BRR;
- The remaining grants and/or new responsibilities that will be devolved will be determined by Spring 2018.

3.2 There are a number of issues that needed to be determined in devising the new system of 100% BRR, some of which will be informed by the pilot schemes.

3.3 100% pilots will retain all locally-collected business rates and will receive additional responsibilities in return.

3.4 As a minimum, authorities will forego the Revenue Support Grant and Rural Services Delivery Grant. *The Revenue Support Grant for South Hams District Council is zero for 2018/19 but the Rural Services Delivery Grant is £251,886 for 2018/19. The Council would not receive this amount if it was part of a pilot, but instead it would receive a share of the gains.*

3.5 Any difference between the increase in business rate retention and new responsibilities will be offset by an adjustment to top-ups or tariffs. The creation of the pilots will be “fiscally neutral” at baseline, but authorities will gain from retaining 100% of any above-baseline growth.

3.6 Pilots will have a safety net at 97% of Baseline Funding Level (for the whole pilot instead of the current 92.5% for an individual authority). No levy will be payable by the pilot or the individual authorities. The DCLG has not decided whether there will be a “no detriment” clause, whereby the pilot as a whole cannot be worse-off than under the existing 50% scheme.

3.7 It is highly unlikely that all applications for pilot status will be successful because of Government affordability constraints. There is likely to be a competitive process, with applications measured against the following criteria:

**Applications should cover a functional economic area.** The invitation talks about covering a “functional economic geography”. This might be a current pool area or county, but could also extend further than this.

**Preference for applications from two-tier areas.** Pilots will not be limited to two-tier areas, although the split between counties and districts is something the DCLG clearly wants to explore. The 2017-18 pilots only included single-tier authorities. For applicants in two-tier areas such as Devon, deciding on the tier split for counties and districts will be a very important and potentially a difficult decision.

**Proposals would promote financial sustainability.** The DCLG wants pilots to show how they can be more self-reliant and require less support from the national safety net. There is some concern that 2017-18 100% pilots are too financially beneficial for authorities, with large potential upside and no downside. The next round of pilot applications will need to say whether they will need the “no detriment” provision to continue. Furthermore, the DCLG is proposing that the safety net (whilst increasing from 92.5% to 97% of Baseline funding level) will apply at the pilot level rather than individual authority level (as it does for the first round of pilots). The DCLG is not confirming one way or another whether there will be a “no detriment” clause. This increases the risk for 2018-19 pilots, but the level of gains predicted for a Devon pilot should give a sufficient safety blanket against this.

**Evidence of how pooled income from growth will be used across the pilot area.** The DCLG wants to see how (potentially considerable) financial gains will be used. Of principal concern, is that gains are used within the pilot to mitigate risk, and to reduce the reliance of individual authorities on the national safety net. Applications for pilot status will need to demonstrate that there would be arrangements in place to share risk and reward. Additionally, the DCLG wants to see how pilots would invest “some retained income from growth ... to encourage further growth across the area”. This was not something that the first round of pilots were asked to demonstrate.

- 3.8 The DCLG is looking for a wide spread of different types of pilot. There will be particular focus on applications from rural areas (given that the majority of 2017 pilots are in urban areas) and from two-tier areas. A Devon Pilot bid would meet both these criteria. This is a real opportunity for Devon Authorities whom it is felt meet many of the criteria being asked for from pilot bids.
- 3.9 The emphasis on financial sustainability and risk is a new criteria for this round of 100% pilots. Proposed changes in “no detriment” and the safety net are really important because they place much more risk on authorities. As a result, decisions by authorities will need to be supported by robust financial modelling. Authorities will need to have some confidence about growth in the proposed area, and about the

potential risk to that growth. Crucially, it is possible that an authority or the whole pilot could be worse-off as a result of the changes in “no detriment” and the safety net. It is assumed that the DCLG has not made a decision about “no detriment” in case it puts off applications that it might want to support, but it is envisaged that those applicants who are willing to proceed without a “no detriment” clause could be looked on more favourably for pilot status.

- 3.10 Very little is said in the invitation about transfers of funding streams or new responsibilities. This is maybe because DCLG are thinking that it will take too long to negotiate anything new, with the deadlines being so short.
- 3.11 All authorities covered by the proposed pilot will have to give their agreement. This has implications for how the pilot is developed by a group of authorities: every authority needs to have an incentive to join the pilot. Governance is also important to the DLCOG because they will want to ensure that prospective candidates will deliver.
- 3.12 The deadline for applications is the 27<sup>th</sup> October. Decisions about successful pilots will not be made until potentially the provisional finance settlement itself and announced in December 2017. For any authorities who would wish to continue with their pool (under the current 50% system), if their pilot application is unsuccessful, they will need to make arrangements in parallel.
- 3.13 If the bid was unsuccessful, it is recommended that the Council re-joins the Devonwide Business Rates Pool for 2018/19 (see Section 7).

#### **4. BUSINESS RATES FOR SOUTH HAMS DISTRICT COUNCIL**

- 4.1 **Retained Business Rates** - The Government introduced the Business Rates Retention system (50% scheme) from April 2013. There is a risk of volatility in the system because Councils are exposed to any loss of income if businesses go into decline. The Council was part of the Devonwide Business Rates Pool to mitigate this risk, but had to come out of the Pool due to the risk associated with large business rates appeals.
- 4.2 Of the Business Rates collected by South Hams of £30.8 million, the Council is predicted to retain in funding only £1.86 million of this in 2018/19. So the District Council retains approximately 6p in every £1 to run our services.

#### **Self-sufficient local government: 100% Business Rates Retention**

- 4.3 The move from 50% to 100% Business Rates Retention (BRR) will see new responsibilities given to local government, with certain central government grants already being phased out for many Councils such

as South Hams (such as Revenue Support Grant). The Government has previously announced that the move to 100% BRR will be fiscally neutral. As the Local Government Finance Bill was omitted from the Queen's Speech, the timing for the introduction of 100% BRR is now unclear.

## **5. FINANCIAL MODELLING**

5.1. LG Futures undertook some modelling on behalf of the Devon authorities to consider the impact of becoming a pilot and to ensure no Devon authority was detrimentally affected by becoming a pilot.

5.2 There are a number of reasons why it would be advantageous to become a pilot and these include:

- To help DCLG design the 100% (BRR) scheme;
- To help influence the design and to explore options
- To test more technical aspects of the 100% business rates retention system, such as tier splits between upper tier authorities and Districts
- Financial benefits
- Local perception and reputation;
- Continue to evolve integrated working on business rates across Devon;

The opportunity for Councils to work together as a pool across a functional economic area will allow authorities to make coherent strategic decisions about the wider area and to jointly manage risk and reward.

Pilots will test authorities' administration, technical planning for implementation and to look at system maintenance, how the accounting, data collection and IT system will work. The Government expects to learn from the pilots' experiences in the design of any national system of business rates retention.

5.3 LG Futures have undertaken some modelling using the most recent data from the Devon pool. This modelling is based upon existing historic and forecast business rates data as provided to DCLG.

5.4 Based upon historic and forecast levels of business rates income LG Futures have suggested that the Devon Pool could benefit by somewhere in the region of between £10m to £16.9m by becoming a pilot in 2018/19. It should be noted that all Devon authorities must continue to be part of the Pool if this estimated gain is to be achieved. This would also include South Hams District Council who would be able to be part of a pilot due to the large business rates appeals being settled in 2016-17. It should be noted that the modelling is an estimate at this stage and this gain would be for one year only i.e. 2018/19.

- 5.5 As part of any application to become a pilot the Devon authorities will need to prepare a proposal to DCLG setting out why Devon should be considered as a pilot. As an existing Pool, Devon should have a strong case as it has proven governance arrangements and has made pooling gains for each year it has operated. There are expected to be around 15 bids for pilot status around the country and the likelihood is that only around 5-6 areas would have pilot status approved by DCLG. Therefore there would be a lot of competition for being a pilot and Devon would need to set out in its bid why the Devon region should be approved by DCLG.
- 5.6 Further work would be required by the Devon authorities with respect to the Governance arrangements. It is suggested this work is delegated to the section 151 officers. This work will include making proposals and reaching an agreement as to how the financial benefits from being pilot are shared amongst all Devon authorities.

## **6. WHAT COULD PILOT BID STATUS MEAN FOR SOUTH HAMS DISTRICT COUNCIL FINANCIALLY?**

- 6.1 Based upon the work undertaken by LG Futures, there is a case for the Devon Pool to apply to be a pilot area for Business Rates Retention. Modelling estimates there could be between a £10 million to £16.9m gain to the pool in one year (2018/19) which would be retained and shared within Devon.
- 6.2 South Hams would have to forego the Rural Services Delivery Grant that it was due to receive in 2018-19 which is £251,886, if it was part of a pilot. However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.
- 6.3 The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). The invitation to be a pilot states that the 2018/19 pilot programme will last for one year only. Even though the additional funding is only short-term additional funding, it would allow the Council time for longer term options for achieving financial stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21. This pilot is too uncertain at this stage to be seen as a solution to closing that gap and this income is only for one year (it is not recurring year on year income).
- 6.4 The Government is interested in exploring how business rates retention could operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas. In addition, the Government would expect for some retained business rates income from growth to be invested to encourage further growth across the area.



- 6.5 For the 2017/18 pilots the Government has agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. This is not necessarily the case for 2018/19 pilots. The Government has said that proposals for the 2018/19 pilots will need to include details of how authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 pilots programme does not include a 'no detriment' clause. Devon Authorities will need to decide whether or not they would be willing to become a 100% Business Rates Retention pilot if the 2018/19 pilots were expected by DCLG to operate without the benefit of a 'no detriment' clause. As part of the application process to become a pilot, Devon Authorities would have to state whether or not they would still like their application to be considered if they were expected to operate without a 'no detriment' clause.
- 6.6 All Devon authorities must remain within the Pool (and part of the pilot bid) to ensure any application to DCLG is successful and the modelled financial benefits achieved.
- 6.7 Plymouth City Council is currently the administering Authority for the Devon Business Rates Pool. The Council is supportive of continuing to be the administering Authority for a pilot in 2018/19.

## **7. DEVON BUSINESS RATES POOL FOR 2018-19**

- 7.1 There has been a Devon Business rates pool since 2013/14. South Hams were original members, but the Council subsequently left due to the uncertainty regarding some large business rates appeals.
- 7.2 The large appeals have now been resolved and South Hams has an opportunity to re-join the pool for 2018/19. DCLG usually requires pool changes to be notified by the preceding October.
- 7.3 If Devon is able to become a business rates pilot for 2018/19, a Devon business rates pool will not be needed. However, this will not be known until after the expected deadline to change the pool's membership. Therefore applying to be in the pool is still required.
- 7.4 In order to evaluate whether South Hams should seek to be in the pool for 2018/19, it is necessary to evaluate the potential risks and rewards of entering the pool.
- 7.5 The main risk of entering the pool is that if it makes a loss. If a loss occurs, pool members have to share the value of the loss between them. In order to assess the risk, past performance of the pool has been assessed. For every year of the pool, the net position of the area has been more than the Business Rates Baseline, with 2016/17 being the highest to date of £7.6 million. This is forecast to increase to £12.5 million in 2017/18.

7.6 The reward (for South Hams) of entering the pool in 2018/19 is that a proportion of any levy due is retained by South Hams in the form of a pooling gain (rather than paid to DCLG). There is also a benefit to other pool members, with the remaining amount of any levy due being shared across the remaining pool members. The forecast for 2018/19 shows a levy of £0.6 million would be due. Of this amount, it is likely that South Hams would benefit from a pooling gain of around £100,000.

7.7 The risk of the pool making a loss (and adversely affecting South Hams) appears minimal, considering the Devon authorities have never made an aggregate loss since the business rates scheme started.

## 8. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Executive is responsible for recommending to Council the budgetary framework. In accordance with the Financial Procedure Rules, Council must decide any material items affecting the Budget of the Council (e.g. a bid for Business Rates Pilot status requires the approval of Full Council)</p> <p>The preparation of the annual Budget is evidence that the Council has considered and taken into account all relevant information and proper advice when determining its financial arrangements in accordance with statutory requirements, and in particular, that it will set a lawful budget.</p>
Financial	Y	<p>South Hams would have to forego the Rural Services Delivery Grant that is was due to receive in 2018-19 which is £251,886, if it was part of a pilot.</p> <p>However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.</p> <p>The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). Even though the additional funding is only short-term additional funding, it would allow the Council time for longer term options for achieving financial</p>

		<p>stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21.</p> <p>This pilot is too uncertain at this stage to be seen as a solution to closing that gap and this income is only for one year (it is not recurring year on year income).</p> <p>The reward (for South Hams) of entering the pool in 2018/19 is that a proportion of any levy due is retained by South Hams (rather than paid to DCLG). There is also a benefit to other pool members, with the remaining amount of any levy due being shared across the remaining pool members. The forecast for 2018/19 shows a levy of £0.6 million would be due. Of this amount, it is likely that South Hams would benefit from a pooling gain of around £100,000.</p>
Risk	Y	<p>The emphasis on financial sustainability and risk is a new criteria for this round of 100% pilots. Proposed changes in “no detriment” and the safety net are really important because they place much more risk on authorities.</p> <p>As a result, decisions by authorities will need to be supported by robust financial modelling (this is being undertaken by Local Government Futures on behalf of Devon Authorities).</p> <p>Authorities will need to have confidence about growth in the proposed area, and about the potential risk to that growth. Crucially, it is possible that an authority or the whole pilot could be worse-off as a result of the changes in “no detriment” and the safety net.</p> <p>It is assumed that the DCLG has not made a decision about “no detriment” in case it puts off applications that it might want to support. Devon Authorities will need to consider this point to decide on, on which basis it would wish to proceed.</p> <p>The risk of the pool making a loss (and adversely affecting South Hams) appears minimal, considering the Devon authorities have never made an aggregate loss since the business rates scheme started.</p>

Comprehensive Impact Assessment Implications		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

### Supporting Information

Briefing note on Business Rates Pilot for 2018/19 to Devon Local Government Steering Group and Devon District Forum on 14 July 2017

Invitation from DCLG to apply for business rates pilot status for 2018/19:

<https://www.gov.uk/government/publications/100-business-rates-retention-pilots-2018-to-2019-prospectus>

### Appendices:

None

### Approval and clearance of report

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	N/A