

Key Decision Required:	Yes	In the Forward Plan:	No
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PORFOLIO HOLDER FOR FINANCE AND CORPORATE RESOURCES

24 SEPTEMBER 2018

REPORT OF DEPUTY CHIEF EXECUTIVE

A.1 JOINING AN ESSEX BUSINESS RATES POOL AND PILOT IN 2019/20

(Report prepared by Richard Barrett)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek agreement to the Council participating in an Essex business rates pool in 2019/20 and to support an application to the Government to become a pilot area in the same year.

EXECUTIVE SUMMARY

- The Local Government Finance Act 2012 changed how local authorities are financed by introducing local retention of non-domestic rates from April 2013. The Government felt it important to incentivise authorities to pursue economic growth by allowing them to retain some of the benefit from growth in business rates.
- 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.
- In addition to the ability to form pools, the Government invited pools to bid for pilot status last year on the basis of the previous 100% retention model.
- An Essex wide pool was formed in 2018/19 but it was unsuccessful in its bid for pilot status.
- For 2019/20, the Government have repeated their invitation to authorities to form pools and then apply to become pilot areas, although this would be on a revised 75% retention model.
- The Council has remained a member of the Essex wide pool since 2015/16, which has seen significant financial benefits - the current forecast gain for 2018/19 is **£0.515m**.
- Financial analysis has been undertaken to set out the potential financial benefits of not only retaining an Essex Pool in 2019/20, but also the impact of applying for Essex to become a pilot area.
- Maximising income is a key element of authorities financial forecasts and although the offer made by the Government is for only 2019/20, one-off income of potentially **£15.5m** could be receivable within Essex if it participated in a revised business rates pool within a pilot area.(or one-off income of potentially **£11.661m** if only a pool was agreed)
- A number of risks are associated with being a member of an Essex pool / pilot, which have been set out along with mitigating responses.

- Applications for new pools and pilot status must be received by the Government by 25 September 2018.
- After considering all of the relevant factors and after reflecting on the various risks, there remains strong confidence that the Council is likely to be in a financially advantageous position if it participates in an Essex business rates pool / pilot in 2019/20 compared to acting alone.

RECOMMENDATION(S)

It is recommended that:

- the Council confirms its participation in an All Essex Business Rates Pool in 2019/20 and supports the application to the Government to become a pilot area in the same year;**
- subject to a) above, delegation be given to the Deputy Chief Executive to agree the final pooling agreement and application to become a pilot area in 2019/20;**
- subject to a) and b) above, delegation be given to the Deputy Chief Executive in consultation with the Portfolio Holder for Finance and Corporate Resources to withdraw from the pool / pilot if disadvantageous for the Council to remain a member.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Maximising financial opportunities and financial planning are essential to support the delivery of financial stability and resilience especially in the context of the current and challenging financial climate and in supporting the long term financial forecast. Such an approach underpins the Council's capacity to deliver on its commitments, objectives and priorities.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

As set out later on in this report the Council has received **£1.184m** in total since the pool formed in 2015/16, and it is forecast that there will be further income of **£0.515m** in 2018/19.

Further benefits if successful in applying to become a pilot area along with the formation of a revised pool has the potential to deliver one-off income to Essex as a whole of **£15.545m** In 2019/20.

There are a number of risks set out in a separate section of this report and based on a review of these, and how they are mitigated / managed, there is a strong case for becoming a member of a revised Essex business rates pool along with supporting the application to the Government for the Essex pool to be designated as a pilot in 2018/19 is set out.

A business rates resilience reserve is held by the Council which provides further mitigation to the risk associated with business rates which would be extended to underwriting the

risks of being a pool member within a pilot area in 2019/20. This reserve totals **£1.6m**.

The actual benefits of an Essex Pool and pilot status will depend on a number of assumptions. Such assumptions include the amount of growth in business rates in each of the pooling authority's areas up to and including 2019/20 and the level of business rate appeals. Further / detailed information is set out further on in this report, which supports the proposals.

At present the Council receives section 31 grants to reimburse the cost of the various reliefs announced by the Government such as small business rate relief. These will continue and therefore will not have a direct impact on the decision to become a pool member and apply for pilot status in 2019/20.

Risk

As highlighted when the original Essex Pool was formed, there is a significant risk that by not pooling, the resources available to Essex authorities are not being maximised. This has been brought into even sharper focus given the continued financial challenges faced by authorities.

Further detailed considerations are set out in a separate section further on in this report.

LEGAL

The Local Government Finance Act 2012 creates the ability for authorities to pool their non-domestic rates. In constructing a scheme it will be necessary to agree the terms of governance. This will be finalised as part of the application process to become a pilot area in 2018/19 and subject to the right to withdraw from the pool before it comes into effect as part of the Government's Local Government Finance reporting processes later in the year.

At its meeting on 14 September 2018, Cabinet delegated the decision to join a pool / pilot in 2019/20, if advantageous to the Council, to the Portfolio Holder for Finance and Corporate Resources.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

There are no implications directly arising from this report.

PART 3 – SUPPORTING INFORMATION

NNDR POOLING 2019/20 AND APPLYING TO BECOME A PILOT AREA

The Council has been a member of an Essex Business Rates pool since 2015/16 with 2018/19 being the fourth year of such arrangements.

The benefit of pooling is derived from the fact that any growth in business rates income above a 'baseline' level is retained across the pooled area rather than it being paid to the Government via a levy that would be the case if the pool did not exist. There are complex calculations that underpin this concept, which for the Essex Pool is based on setting off tariffs paid to the Government by District Councils against the 'top up' paid by the Government to Essex County Council (ECC).

Although membership of the pool has changed over time, this Council has always been a member and at the centre of the pool's governance arrangements is an agreement that all members have signed up to, and amongst a number of issues, it sets out how any gain from being in a pool is apportioned across its members. The current agreement uses the following approach to apportioning gains:

- 25% of any gain be distributed using each authority's baseline funding level.
- 25% of any gain be distributed using each authority's local share of business rates income.
- 50% of any gain be distributed based on the growth in business rate income achieved in each District.

A further key concept underpinning the existing pooling agreement is that no authority should be worse off within the pool than it would have been if it had chosen not to join the pool. This also takes into account the safety net position where the Government 'protect' each authority's income position by funding any loss in income greater than 7.5% of its business rates baseline in any year, which is extended and applied to the pool as a whole.

A summary of the financial benefits for the Council over the period of being a pool member are as follows:

2015/16 - **£0.223m**

2016/17 - **£0.377m**

2017/18 - **£0.584m**

2018/19 - **£0.515m** (forecast)

Considerations for 2019/20

Ordinarily, the existing Essex Pool arrangements would have continued, albeit subject to the annual review whereby members may wish to leave or other authorities may wish to join the pool. However the Government have repeated their offer from last year of inviting pools to bid for pilot status in 2019/20. The financial benefits of obtaining pilot status are lower in 2019/20 compared to last year as the model is based on a 75% local retention model compared to the previous 100% model.

Although there is the option to not be in a pool or part of any pilot bid in 2019/20, based on the financial benefits of being in a pool as set out above and the forecast potential gains in 2019/20, this option has been excluded.

Option 1 – Council Continues to be in an Essex Pool in 2019/20

Detailed financial analysis of retaining a pool in 2019/20 has been undertaken and is based on all but one Essex Authority being in the pool. The potential financial benefit to the Council of remaining a member of the pool in 2019/20 is forecast to be **£0.575m**, being its share of the total benefit for all participating Essex authorities of **£11.661m**.

Option 2 - Council Continues to be in an Essex Pool in 2019/20 and Supports a Pilot Bid

The Government have set a deadline of 25 September 2018 as the date that applications to become pilot areas must be received. Applying to become a pilot is based on an accepted requirement that Local Authorities will need to establish pools across common economic areas. Essex therefore remains in a strong position given it has operated a pool over the past four years. However, one disadvantage from last year remains and that is that one Essex Authority does not wish to join an Essex Pool or pilot bid in 2019/20 and it is understood that if all authorities do not join then the application for pilot status could be weakened.

If the bid for pilot status is unsuccessful again in 2019/20, the fall back of an Essex Pool remains.

The main advantage identified from becoming a pilot area is that 75% of business rate growth above the baseline would be retained within Essex rather than 50% being paid to the Government. This is a change from the pilot prospectus last year where it was based on retaining 100% of business rates above the baseline.

Based on the detailed financial analysis undertaken, it is forecast that Essex as a whole could benefit by **£15.545m**, representing 75% of estimated growth above baseline. This is after allowing for the removal of revenue support grant and rural services delivery grant, which is adjusted for in the overall calculations.

In respect of the revenue support grant, 2019/20 is the last year that it will be receivable as the Government move to a full business rates retention model from 2020/21.

The bid for pilot status is also based on no authority being worse off in the pilot, using the pooled position as the level of income 'guaranteed' to participating authorities subject to the risk highlighted later on in this report.

In discussion with other Essex authorities and to recognise an element set out in pilot prospectus, a 'top-slice' of the estimated gain has been included and targeted towards financial sustainability. After allowing for this 'top-slice' of **£1.554m** (representing 10% of the overall gain), an estimated **£13.991m** would be available for further allocation. (**£0.077m** of the **£1.554m** would be receivable by TDC.)

In a change from last year's pilot bid, rather than apportioning gains across authorities on a formulaic basis from the outset, the approach taken this year is to make an initial allocation to 'growth corridors' in Essex (e.g. North, South, Mid and West of Essex) with a further stage introduced to allocate money to projects on a locally determined basis in consultation with pool / pilot partners. This further stage would be considered once confirmation has been received from the Government whether the pilot bid has been successful or not.

Based on the financial gains potentially available to the Council set against the 'no worse off' principle, it would remain financially advantageous to continue to be a member of an Essex Pool and support the application for pilot status.

Clearly there are a number of risks and factors that will influence the potential gains set out above but even after taking these into account, it is still expected that being in an Essex pool and pilot would generate an overall financially advantageous position for the Council. Risks and how they will be mitigated are set out in the next section of the report.

It is accepted that bids to become a pilot area will be a competitive process and the Government have acknowledged that affordability constraints may result in further assessment criteria being applied.

The pool and pilot bid will need to address a number of issues such as identifying the lead authority, setting the scene for how growth will be used across the county along with overall governance arrangements. This process has been undertaken by collating the input from various services across the participating authorities such as finance and regeneration and economic development with the aim of finalising a bid that is as innovative and attractive to the Government as possible.

As is currently the case within the Essex Pool, it is proposed that ECC act as the lead authority.

Although it is acknowledged that it may weaken the application, it is proposed that if any authority withdraws from either the pilot application or the pool, then the remaining members will still pursue pilot /pool designation in 2019/20.

MANAGEMENT OF RISKS

As already mentioned, the risk to each authority is limited by the scheme being constructed on the basis that no authority is worse off than if they had remained outside of the pool / pilot.

However risks within a pilot area would increase as authorities will be giving up their revenue support grant in return for retaining more of the business rates income raised locally. The primary risk is that income projections are not achieved, or worse, business rate income reduces in 2019/20. These risks along with other considerations have been set out along with the proposed response as follows:

Risk	Response
<p>One or more authorities see a significant reduction in the forecast business rates income in 2019/20</p>	<p>There are a number of mitigating factors:</p> <ul style="list-style-type: none"> • Current Forecast gains are in excess of £15m above the business rate baseline position. This would have to be 'eroded' before the pool went into a negative position, which provides significant 'headroom'. • It is estimated that each authority would have to be faced with 5% reductions in their income to erode all benefits from being in a pool/pilot. Such significant reductions are unlikely and would perhaps only be seen in a recessionary period, which is not expected. Also the impact from recessionary factors are usually delayed and even if something economically significant happened it is unlikely to have a significant impact in 2019/20.
<p>The safety net applies to the pool as a whole so there could be a loss that would otherwise have been met by the Government in an un-pooled area.</p>	<p>A safety net trigger of 7.5% is applied by the Government. Any reductions in income below this amount in any one year would be supported by Government funding and applied to the whole pool.</p> <p>As part of the becoming a pilot area, the Government have stated that they will</p>

	<p>reduce this to 5%. Therefore the pilot area would receive greater protection from reductions in income compared to that offered to only pooled areas.</p> <p>Notwithstanding this additional support, the positive position currently being experienced across Essex, as set out in the point above already provides a significant 'buffer' to the potential for a negative income position compared to the baseline.</p>
<p>There could be a negative impact on income from business rate appeals</p>	<p>This is an extension to the risk associated with reduced income as any additional funding required to settle appeals would in effect be funded from income received in the year.</p> <p>An appeals provision is already held by the Council which is adjusted each year based on the number and success of appeals made. Given the positive points already made above in respect of income growth, it is unlikely that appeals will reach a level that would start to have an overall negative impact on the pool / pilot.</p>

In the unlikely event of an overall loss being experienced by the pool/pilot, this would be allocated to each authority based on similar principles to gain sharing highlighted above.

As set out above, if an authority decides to pull out of the pool after the application has been made then the pool cannot go ahead as there would be no opportunity to form a revised pool. Therefore it is essential that all pool / pilot members have undertaken the necessary decision making processes by the deadline of 25 September and as far as is practicable, undertaken the necessary due diligence in respect of their forecast business rates position for 2019/20 along with understanding the risk of being a pool member. For this Council, this work has been undertaken and there are no significant issues arising to date that indicate that it would not be financially advantageous to be a member of the pool / pilot. Once the Government have confirmed the pool / pilot for 2019/20 and the period to withdraw has ended, the pool / pilot will be formed and authorities would no longer be able to withdraw.

It is however recognised that in the event of any arrangements that put the Council at a financial disadvantage, the first priority would be to protect the Council's position and take the necessary action. Such action is not expected, and if there were reasons to withdraw from the pool / pilot after the 25 September 2018, then it would be due to risks that all participating authorities are likely to be experiencing so it would be by mutual agreement that the pool/pilot is dissolved rather the responsibility resting on only one authority. This issue is however a reputational risk for the Council given the significant financial consequences to other authorities if TDC withdrew from the pool, but a delegation is included in the recommendations above to give the flexibility to react in a timely manner if unfavourable events occur.

On balance and taking all of the above into account, enough financial confidence is established to support becoming a member of a revised business rates pool along with an application to the Government to be considered for pilot status in 2019/20.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

None