

Worcestershire Business Rates Pool – Pooling Agreement

This Pooling Agreement sets out the requirements of the Pool and Pool Members for the operation of the Worcestershire Business Rates Pool. Its contents are set out below:

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This Pooling Agreement also includes the following Schedule that set out in more detail the operation of key aspects of the Pool.

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GOVERNANCE ARRANGEMENTS FOR WORCESTERSHIRE BUSINESS RATES POOL

1. Purpose

- 1.1. This Pooling Agreement sets out the Governance Arrangements that are voluntarily entered into by members of the Worcestershire Business Rates Pool (WBRP).
- 1.2. These governance arrangements relate to the establishment and operation of a Pool to collect and distribute the Retained Levy that would have been paid to Central Government if those Pool Members were not in the WBRP under Central Governments Business Rates Retention System.

2. Pooling Agreement Review Period

- 2.1. This Pooling Agreement will be subject to an annual review and will need to be adopted by the Governing Body annually prior to the start of the Financial Year.

3. Pool composition

Membership

- 3.1. The Members of the WBRP shall be:

- a. Worcestershire County Council
- b. Malvern Hills District Council
- c. Worcester City Council
- d. Wychavon District Council
- e. Wyre Forest District Council

Lead Authority

- 3.2. The WBRP will be co-ordinated by the Lead Authority on behalf of the Section 151 Officers, Chief Executives and Managing Directors of Pool Members. For the purpose of this agreement, Worcestershire County Council is defined as the Lead Authority.

Decision Making Structures

- 3.3. The Governing Body will receive an annual report from the Executive Body that summarises the operation of the WBRP. This body will be known as the WBRP Governing Body and will for clarity be comprised of the Leaders from those organisations set out in paragraph 3.1.
- 3.4. For the purpose of this Pool, the Executive Body is the Chief Executives or Managing Directors and Section 151 Officers of the Pool Members. The Executive Body will approve operation decisions on behalf of the WBRP and prepare reports for the Governing Body as set out in this agreement
- 3.5. The Executive Body will require unanimous support to approve 'Key Decisions'. Key decisions are set out below:
 - Changes in the levy share mechanism;
 - Changes in the level of risk reserve;
 - Approval of disbursements from the risk reserve;

- Changes in Pool Membership; and
 - Decisions at Governing Body level that are required as part of the dispute resolution procedure.
- 3.6. The Executive Body will require a simple majority of its full membership to approve all other decisions.

Approval of new membership

- 3.7. Subject to the unanimous agreement of the Governing Body and the consultation and designation requirements of the Department of Communities and Local Government being met, the WBRP may agree to admit additional members.
- 3.8. Admission shall take place with effect from first day of the financial year following an application being made. Prospective members of the WBRP must apply by the 30 June for admission to WBRP in the year preceding their proposed admission.

4. Status of this Pooling Agreement

- 4.1. Pool Members acknowledge that the following parts of this Pooling Agreement impose significant obligations on them and that the consequences of failure by a Pool Member to meet those obligations should, for the benefit of other Pool Members, give rise to formal legal sanctions if such other Pool Member sees fit to exercise them:
- Section 5 – Dispute Resolution
 - Sub-section 7.5 Obligation to make payments into the WBRP
 - Section 8 – Operation of the Pool
 - Section 9 – Dissolution of the Pool
 - Schedule 1 – Operation of the WBRP Retained Levy Share Mechanism
- 4.2. Notwithstanding this by signing this agreement Pool Members will agree to operate in good faith within all areas of this Pooling Agreement.
- 4.3. Pool Members have approved this Pooling Agreement in advance of the Secretary of State of Communities and Local Government designating the Pool for the purposes of the Business Rates Retention Scheme. An immediate review of this Pooling Agreement will be conducted to consider any changes that may be needed to operate if conditions are applied to the designation by the Secretary of State.
- 4.4. In the first year of operation of the Business Rates Retention system there will be a review of the Pooling Agreement to ensure robustness and that there are no unforeseen consequences of the arrangement. The recommendations of the review will be reported to the Executive and Governing Body as appropriate.

5. Dispute Resolution

- 5.1. The following process will apply in the event of any disagreement between members of the Pool if any matter within the remit of the WBRP cannot be resolved through consensus:

- a. Section 151 Officers shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Pooling Agreement; or then
 - b. A vote will be required in accordance with the requirements for Key Decisions set out in paragraph 3.5; or then
 - c. Any dispute is escalated to the Governing Body where a decision will be made as a key decision.
- 5.2. If a dispute cannot be resolved through the process outlined above, an independent mediator will be appointed by the Governing Body to consider representations and to make recommendations.

6. Pool aims

- 6.1. Members of the Pool consider the WBRP will be an important enabler to drive forward economic growth and create a positive framework for targeted investment across Worcestershire. In addition the WBRP will have an important role of reinvesting the additional local financial benefits devolved through the localisation of some of the business rate back into the local economic environment should adequate resources exist in the Pool Risk Reserve to mitigate the effects of volatility in local business rates.

A focus on economic development

- a. To provide a new means of delivering the promotion of growth and jobs, within Worcestershire and supporting an Open for Business approach across the Pool to investment and inward investment;
- b. Build on and strengthen the working relationships of the local authorities and Local Enterprise Partnership within Worcestershire;
- c. To encourage collaborative working across the local authorities involved in the WBRP rather than restricting working to the authorities' administrative boundaries;

A commitment to working together

- d. Recognise the interdependence of the local authority members;

Sharing risk and reward

- e. Sharing of the benefit from investment in economic growth across a wider area; and
 - f. Reduce the impact of the volatility of business rates income over the Pool by spreading the risk.
- 6.2. The intention is that Pool Members should be no worse off than if they were outside the Pool. Pool Members will work together in an open way, including sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.

7. Roles and Responsibilities

- 7.1. As the Lead Authority, Worcestershire County Council will act on behalf of WBRP and the WBRP authorities agree to meet the expenses of Worcestershire County Council in so acting. The administration costs of undertaking the role of the Lead Authority shall be funded by the WBRP members in equal proportion based on a transparent and open
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memorandum account that details the additional expenditure incurred by the Lead Authority in fulfilling this task. Reimbursement shall be made as a first call on any retained levy and represent a reasonable assessment of the costs of administering the Pool. If the retained levy is not sufficient to cover the administration costs then they will be borne equally by all Pool Members.

- 7.2. An estimate for this task in the first year is £10,000 and the call from the Risk Reserve or member Local Authorities will be limited in the first year, 2013/14 to £10,000. This will be subject to a review at the end of the first year of operation and ratification each year by the Executive Body.
- 7.3. As Lead Authority Worcestershire County Council will:
 - a. Administer the transfer of funds between the WBRP and all relevant parties;
 - b. Administer the transfer of funds relating to any retained levy between the WBRP members in accordance with the agreed sharing mechanisms as detailed in Schedule 1;
 - c. Co-ordinate the submission of information to the Central Government on behalf of the WBRP;
 - d. Prepare the calculation of the estimated level of retained levy payments/reduced safety net payments in any financial year and the actual retained levy payments/missed safety net payments after the year end;
 - e. Make reports as appropriate to the Governing Body on a quarterly and annual basis. These will include a review of governance arrangements to include the size of the Risk Reserve and the methodology for the allocation of resources;
 - f. Secure the completion of any legal agreements, accounting and audit arrangements required to support the operation of WBRP; and
 - g. Lead on the timely provision of the information required, by Pool Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pool.
- 7.4. To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:
 - a. To make payments to the Lead Authority on time and in accordance with the schedule of payments,
 - b. To provide accurate, timely information to the Lead Authority to enable all formal Pool returns to central government to be completed,
 - c. To inform the Lead Authority, as soon as is practical, of any intelligence that may impact on the resources of the Pool either in the current year or in future years,
 - d. To provide such information as the Executive Body and Governing Body agree is reasonable and necessary to monitor and forecast the Pool's resources within the timescales agreed,

- e. To provide such information as the Executive Body and Governing Body agree is reasonable and necessary on the use of the Pool's resources for inclusion in the Pool's annual report, and
 - f. To provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable the Lead Authority to calculate the end of year accounting entries needed.
- 7.5. All member authorities of the WBRP will make relevant payments into the WBRP as detailed in Section 8 below. Each member of the WBRP will be liable for any payments required to the Department for Communities and Local Government in the same way as if the Pool does not exist.
- 7.6. Any decisions made by the Governing Body to commit resources will require ratification by each member of the WBRP's own Governance processes. It is for each member of the WBRP to decide what mechanism it uses for "ratification" and this can include granting a delegation in advance to its Leader.

8. Operation of the Pool

- 8.1. The collection of business rates will continue to be the responsibility of billing authorities who will continue to use their own bank accounts for this purpose. In addition the operation of collection funds for business rates will continue to be the responsibility of individual billing authorities.
- 8.2. Pool Members will make payments into the Pool and to any organisation outside of the Pool as required in accordance with the clarification to be provided by the Department for Communities and Local Government. The intention is that the timing of payments will mirror payment schedules that would apply if no Pool existed.
- 8.3. All Pool Members will use best endeavours to ensure each organisation's obligations are met with regard to cashflow and the flow of funds. A Pool Member agrees to compensate another Pool Member where these obligations are not met which requires any other Pool Member to incur costs that could have reasonably been avoided.
- 8.4. A Risk Reserve will be established for the purpose of providing a contribution towards the mitigation of risks inherent in managing business rates locally. It will be managed in accordance with Schedule 1. Any Retained Levy will be added to the Risk Reserve or dispersed in accordance with Schedule 1.
- 8.5. The WBRP Lead Authority will not carry any additional liabilities further than it would normally bear outside of the Pool except for the management of the Risk Reserve. All interest accruing on the Risk Reserve will be paid into the Risk Reserve. The level of interest accrued on the Risk Reserve will be subject to the annual review by the Executive Body.
- 8.6. Where the Pool is required to make a payment to the Secretary of State, each authority in the Pool is jointly and severally liable to make that payment.

9. Dissolution of the Pool

- 9.1. Membership of the WBRP is voluntary and a member may leave if it wishes to. If a member wishes to leave the WBRP, application to dissolve the Pool

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- must be sought from the Department for Communities and Local Government.
- 9.2. Each member of the WBRP must give by way of one year's notice of any desire to leave the Pool. This is to take the form of a Statement of Intention to be completed by 31 March each year, to be shared immediately with all members of the WBRP to support strategic financial planning.
- 9.3. In the event of unanimous agreement of WBRP members, application to dissolve the Pool can be sought immediately.
- 9.4. Notwithstanding the above, the Department for Communities and Local Government may, through its annual local government finance settlement process change the mechanics of the business rate retention scheme. Should a WBRP member wish under these circumstances to seek to leave the Pool then it should aim to give at least six months notice or as much as possible to the other Pool Members.
- 9.5. On dissolution of the Pool, each Pool Member reverts to their individual top-up or tariff amounts as calculated by the Department for Communities and Local Government.
- 9.6. Any member, who leaves the WBRP, foregoes any claim on any assets of the WBRP unless the dissolution is deemed permanent. In the event of permanent dissolution of the Pool, any assets of the WBRP, including funds available in the Risk Reserve will be disbursed on an equal basis to each Pool Member. This has been agreed on the basis that all Pool Members will use best endeavours to deliver a review during 2013 into the other element of the Local Government Resource Review, Council Tax Support. This will examine measures required to meet the full funding gap created by Central Government through the localisation of Council Tax. The review will consider ways in which this gap can be met solely through reforms to local Council Tax Support/technical reforms to Council Tax and consider the potential for implementation of findings by 1 April 2014.
- 9.7. If the Pool is re-designated after one or more members leave then any existing Risk Reserve from the former Pool becomes the Risk Reserve for the newly designated Pool. In this circumstance the remaining Pool Members may need to reconsider the level of Risk Reserve that is required to mitigate against volatility in Business Rate income following the change in membership.

10. Signatories and seals as appropriate

Worcestershire Business Rates Pool

We, the undersigned agree to be bound by the requirements of the Worcestershire Business Rates Pool Pooling Agreement.

Malvern Hills District Council



Chris Bocock
Chief Executive



Andy Baldwin
Head of Resources (S151 Officer)

Worcestershire Business Rates Pool

We, the undersigned agree to be bound by the requirements of the Worcestershire Business Rates Pool Pooling Agreement.

Worcester City Council



Duncan Sharkey
Managing Director



Lesley Meagher
Finance Service Manager (S151 Officer)

Worcestershire Business Rates Pool

We, the undersigned agree to be bound by the requirements of the Worcestershire Business Rates Pool Pooling Agreement.

Worcestershire County Council



Trish Haines
Chief Executive



Sean Pearce
Head of Corporate Financial Strategy (d.S151 Officer)

Worcestershire Business Rates Pool

We, the undersigned agree to be bound by the requirements of the Worcestershire Business Rates Pool Pooling Agreement.

Wychavon District Council



Jack Hegarty
Managing Director



Vic Allison
Deputy Managing Director (S151)

Worcestershire Business Rates Pool

We, the undersigned agree to be bound by the requirements of the Worcestershire Business Rates Pool Pooling Agreement.

Wyre Forest District Council



Ian Miller
Chief Executive



Joanne Wagstaffe
Director of Resources (S151 Officer)

Glossary of Terms

Lead Authority

The Local Authority that acts as the Lead Authority for the WBRP. It has responsibility for all of the monetary flows to and from Central Government. It will be the key contact between Central Government and the Pool

Baseline Funding Level

The amount of a Pool Member's funding allocation from the business rates retention scheme. This is the combination of retained business rates plus top up/minus tariff.

Executive Body

This is the operational oversight board for the Pool and is made up the Chief Executive or Managing Director and Section 151 Officer for each member of the Worcestershire Business Rates Pool. Appropriate substitutes can be nominated.

Governing Body

This will comprise the Leaders of the Local Authorities that are members of the Worcestershire Business Rates Pool. Appropriate substitutes can be nominated.

Levy Payment

A charge made by Central Government to limit disproportionate gains by members of the WBRP. This has been set by Central Government so that each Local Authority can never see more than a 1% increase in its baseline funding level for each 1% increase in its level of business rates. The Pool captures this levy locally and retains it amongst Pool members.

Retained Levy

The amount of levy retained locally. This is calculated at the sum of levies to be paid by individual Pool members if the Pool did not exist less the levy to be paid by the Pool.

Safety Net

The additional funding received by an authority, from central government, if, in the government's opinion, the decline in business rates in any year would leave an authority with insufficient resources. This is calculated using a national formula.

Tariff

The payment made from tariff authorities to central government over the course of the financial year due to having a higher level of business rates than the baseline funding level. This is inflated annually by the Retail Price Index within the Pool.

Top Up

The payment made from central government to top up authorities over the course of the financial year due to having a lower level of business rates than the baseline funding level. This is inflated annually by the Retail Price Index within the Pool.

WBRP Risk Reserve

An element of the Net Retained Levy set aside in a Fund to provide protection for Pool members from falls in business rate income. This is calculated using a local formula set out in Schedule 1.

Schedule 1: Operation of the WBRP Retained Levy Share Mechanism

Objectives of the Retained Levy Share Mechanism

As a reminder, the only aspect of the Business Rates Retention System to be pooled is the Retained Levy that would have been paid to Central Government but can be retained by the Pool. In addition to supporting work on economic development and demonstrating a commitment to work together across the WBRP the key objectives that the Retained Levy Share Mechanism will support are:

- To create a Risk Reserve that will mitigate, to the extent allowed by the level of the Risk Reserve, local volatility in income from Business Rates.
- Where the Risk Reserve cannot mitigate the full effects of any decline in Business Rates the remaining liabilities will need to be managed by the District and County Council as individual entities.
- A disbursement to Pool Members in two ways.
 - Firstly, allocation towards a shared investment pot that the Governing Body will, subject to ratification by individual Pool Members, support Pool-wide investment to support economic development. It is for each member of the WBRP to decide what mechanism it uses for “ratification” and this can include granting a delegation in advance to its Leader.
 - Secondly, allocation between the Pool Member where the growth in Business Rates occurs and the County Council.
- Any distribution of the Retained Pool Levy to Pool Members should encourage or support further economic growth.
- A balance between the level of risk and reward for individual Pool members will be maintained throughout the life of this agreement.

Allocation Basis

Any retained levy will be allocated in the financial year following the growth occurring and once information has been presented to and confirmed by DCLG. Specifically the allocation will work as follows:

Step 1

The costs of administering the pool for the year will be deducted. The amount remaining following this deduction is referred to as the 'remaining retained levy'.

Step 2

50% of the remaining retained levy will be added to the risk reserve up to a level advised by the Pool Section 151 Officers, for the purpose of this agreement set at £2m. Once the risk reserve has reached this level, this 50% share of the remaining retained levy, will be added to a shared fund whose use will be decided by the Governing Body.

Step 3

25% of the remaining retained levy will be allocated to the County Council.

Step 4

25% of the remaining retained levy will be allocated to the district councils in proportion to the amount of levy that they generated in that financial year.

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Note – the relevant year will be the year in which the retained levy was gained.

Should there be an initial Retained Levy created as part of establishing the Business Rate Retention Scheme the assumption will be that any retained levy is distributed in the same way as described above.

WBRP Risk Reserve Distribution

Set out below are the principles upon which the WBRP Risk Reserve will operate:

- The WBRP Risk Reserve will contribute to the mitigation of any fall in a Pool Members retained income from Business Rates Retention system below their original Business Rates Funding Baseline or Business Rate Funding Baseline following the Business Rates Retention system being reset. This is further set out below.
- If there are insufficient funds in the Risk Reserve to cover all requests for support then each Pool Member will receive a share of the funds available which is in proportion to the requests made.
- A review of the WBRP Risk Reserve will be undertaken annually. If based on the advice of Section 151 Officers the desired level is reduced the disbursement of any excess Risk Reserve will be undertaken in accordance with the remainder of the Allocation basis set out above. This will be subject to approval by the Governing Body.
- Support provided for the Business Rate funding Baseline will be:
 - based on the NNDR3 return when compared to an organisations Business Rate Baseline;
 - made for a period of two years only in order to maintain the incentive for growth in Business Rates;
 - approved by the Executive Body and Governing Body.

Business Rate Baselines will be reviewed on a rolling annual basis to ensure that effects of previous reductions in business rates over the last two years are taken into account.

Limits to support given by the Risk Reserve

Financial support from the Risk Reserve will be limited to a maximum of two years. The aim is to prioritise simplicity in the operation of this scheme and therefore a record of rolling baselines will be maintained to support this objective.

For the first two years of the operation of the Business Rates Retention scheme baseline funding is as given in the local government finance settlement. Any decline in business rates income which leads to a decrease in retained income below the level of baseline funding level for any Pool Member will be compensated for by allocation from the Risk Reserve.

For the following year the baseline funding will be reduced by the average of any compensation paid in the previous two years. The original baseline funding level less this average compensation will be known as the baseline funding level for compensation purposes.

In subsequent years until a reset of the system it will be the previous year's baseline funding level for compensation purposes compared to retained income that that will be used to measure whether more compensation is due.