

## **HIGH PEAK BOROUGH COUNCIL**

### **Report to The Executive**

**9<sup>th</sup> August 2018**

<b>TITLE:</b>	<b>Derbyshire Business Rates Pooling Arrangements - 100% Pilot Update</b>
<b>PORTFOLIO HOLDER:</b>	<b>Cllr Emily Thrane – Portfolio Holder for Finance &amp; Operational Services</b>
<b>CONTACT OFFICERS:</b>	<b>Claire Hazeldene – Finance &amp; Procurement Manager</b>
<b>WARDS INVOLVED:</b>	<b>Non-specific</b>

#### **Appendices Attached:**

#### **Appendix A – Memorandum of Understanding (100% pilot)**

#### **1. Reason for the Report**

- 1.1 The purpose of the report is to provide an update on the Derbyshire Business Rates pooling arrangements as a result of being designated as a 100% pilot pool by Government.

#### **2. Recommendation**

- 2.1 That the Executive:

- Note the proposed arrangements for the operation of the Derbyshire Business Rate Pool 100% pilot status.

#### **3. Executive Summary**

- 3.1 Under the Business Rates Retention Scheme, which came into effect on 1st April 2013, Local Authorities are able to retain a proportion of the business rates they collect. As a result, authorities now have a direct financial interest in the rates system and an incentive to work with their business community to grow local economies.
- 3.2 On 23rd October 2014, the Executive resolved to support the Council's participation in the application to the Department of Communities & Local Government seeking designation for a Derbyshire Business Rates Pool.

- 3.3 The draft agreement was then negotiated by the Chief Finance Officers of each Council and scrutinised in a report to Corporate Select on 12th January 2014, prior to formal commencement of operation from 1st April 2015.
- 3.4 High Peak B.C has benefited from additional retained Business Rates as a result of participation in the pool by an average of £300,000 per year since 2015/16.
- 3.5 In October 2015, the Government announced a forthcoming package of reforms to the Business Rates Retention System including a move to Local Government retaining 100% of Business Rates with an end to the Revenue Support Grant (RSG).
- 3.6 It was announced in December 2017 that Derbyshire was successful in its application for all Authorities in the area to be a pilot for the 100% Business Rates Retention Scheme. Therefore, the Authority's Revenue Support Grant allocation for 2018/19 (£580,000) reduced to zero, with an equivalent amount being rolled into the Business Rates Baseline Funding level.
- 3.7 Appendix A to this report details the Memorandum of Understanding for the 100% pilot as drafted and agreed by all Derbyshire pool participants.
- 3.8 Derby City Council are the lead authority for the pool and will be responsible for administering the scheme. One of the important principles of the pilot scheme is that members should be no worse off than if they were outside the pilot (when compared to the previous pool arrangements).
- 3.9 The initial projections suggest a potential benefit of up to £500,000 to High Peak B.C as a result of being part of the 100% pilot in 2018/19. It must be stressed that the projections are based on the initial model – there will be some more certainty around the forecasts once the quarter 1 figures are circulated by Derby CC (which will take into account the performance of other participants too). Plus a number of variables have an impact on overall Business Rates retention levels, so caution around the forecasts is taken at this stage. Consequently only £150,000 has been assumed as additional retention within the quarter 1 financial report also presented to this Committee.
- 3.10 A proportion of the additional business rates retention income generated by the Derbyshire Authorities will be allocated to the 'Derby and Derbyshire Joint Committee for Economic Prosperity' via its Accountable Body, Derbyshire County Council, to support new business and business growth across the County. This is expected to total some £8 million. A proportion - 25% - will be held back by the Lead Authority, Derby City Council to help militate against any risk of business rates volatility. The remaining 75% of the fund will then be allocated to support the following:-
- Capital projects
  - Feasibility studies
  - Individual grants

#### **4. How this report links to Corporate Priorities**

- 4.1 Being a member of a Business Rates pool supports the aim of the Council to promote business growth and economic regeneration in the Borough and wider economic area; and increases the opportunity to harness increased income retention to support the activities of the Council.

#### **5. Options and Analysis**

- 5.1 A number of options were considered for operation of the pool. The agreement reflects the option that was considered to be the most mutually beneficial agreement under which the pool can operate.

#### **6. Implications**

- 6.1 Community Safety - (Crime and Disorder Act 1998)  
None
- 6.2 Workforce  
None
- 6.3 Equality and Diversity/Equality Impact Assessment  
The report has been prepared in accordance with the Council's Diversity and Equality Policy
- 6.4 Financial Considerations  
Financial considerations are considered within the report.
- 6.5 Legal  
None.
- 6.6 Sustainability  
None
- 6.7 Internal and External Consultation  
Not applicable
- 6.8 Risk Assessment  
The risks and of a Business Rates pool were detailed throughout the original Report (October 2014). The risk around the financial forecasts are also raised within this report.

The Derbyshire Finance Officers Association (DFOA) will monitor the operation of the pool to ensure that any financial threats are identified immediately and appropriate mitigation action is taken.

**ANDREW P STOKES**  
**Executive Director (Transformation) & Chief Finance Officer**

**Background Papers**

Government papers issued

**Location**

Buxton Town Hall

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## 7. Background & Introduction

- 7.1 Under the Business Rates Retention Scheme, which came into effect on 1st April 2013, Local Authorities are able to retain a proportion of the business rates they collect. As a result, authorities now have a direct financial interest in the rates system and an incentive to work with their business community to grow local economies.
- 7.2 The Business Rates Retention Scheme addresses the differing resource needs of authorities, depending on their functions and demography, via a system of top-ups and tariffs, levies and safety net payments. High Peak Borough Council is a 'tariff authority' as the Business Rates baseline is greater than its funding baseline (the Council collects more than the funding baseline as established by central government – the amount of funding it considers HPBC requires using various formulae).
- 7.3 Under the system, the Council retains 40% of business rates collected – this amount is then compared to the funding baseline, with any amount in excess of the baseline subject to a 'levy'. The levy rate is calculated via a formula using the business rates baseline and funding baseline, but is capped at 50p per £1.
- 7.4 On 23rd October 2014, the Executive resolved to support the Council's participation in the application to the Department of Communities & Local Government seeking designation for a Derbyshire Business Rates Pool.
- 7.5 The draft agreement was then negotiated by the Chief Officers of each Council and scrutinised in a report to Corporate Select on 12th January 2015, prior to formal commencement of operation from 1st April 2015.
- 7.6 As part of the Derbyshire Business Rates pool, the levy rate is calculated on the aggregate business rates and funding baselines of all the authorities involved in the pool. With the inclusion of Derbyshire County Council, this results in a levy rate of zero.
- 7.7 High Peak continues to retain the growth in its business rates income that it would have retained as an individual authority outside of the pool. However, it is no longer required to pay any levy over to Central Government. Instead this amount is shared with the pool and the combined pool contributions of all the authorities are then redistributed amongst the members as a pool dividend according to the agreed method of distribution.
- 7.8 Since commencement of the pool in April 2015, High Peak B.C. has benefited financially on an annual basis as detailed in the table below:

	2015/16	2016/17	2017/18
Business Rate Retention (as a result of being a Pool member)	£253,000	£310,000	£353,000

- 7.9 Consequently, an additional £200,000 in Business Rate retention income was built into the 2018/19 Budget.

## 8. Current Pool Arrangements

8.1 The make up of the current pool was agreed following consideration of a number of options. All eleven authorities within the county of Derbyshire joined the pool.

8.2 The purpose of the pool was to drive forward economic growth and for pool authorities to benefit from this economic development across a wider area but also to spread the risk of any volatility in business rates income.

8.3 The 'pool dividend' – being the amount remaining after tariff/levy payments to Government and payments to each Authority of the amount they would have received if there had been no pool – is distributed on the following basis:-

- 30% to the County Council
- one-thirtieth to the Derbyshire Fire & Rescue Authority
- one-third to shire districts in proportion to their growth above the DCLG target.
- one-third to shire districts in proportion to their funding targets
- From each authority's share under this allocation process £15,000 shall be allocated to Derby City Council.
- The pool will not retain a reserve. Instead, participants will maintain their own provision against future pool shortfalls.

8.4 Under the Business Rates Retention Scheme, central government provides a safety net facility which caps any losses that an authority can incur in any one year where they fail to achieve their target baseline. As part of the pool the authorities are no longer eligible for a safety net payment. Instead, the pool would support any loss making authority.

8.5 If there is a shortfall on the pool – i.e. there is insufficient funding to allow each Authority to receive what it would have received outside the pool - it shall be met as follows:

- 10% from Derby City Council to a maximum contribution of £100,000

And the remaining sum:

- 30% from the county council
- one-thirtieth from the fire authority
- one-third from any shire district that failed to achieve its rates collection target. This shall be in proportion to the cash amounts that it/they is/are below the target
- one-third from all shire districts in proportion to their funding targets

If this is insufficient then a further deduction will be made in proportion to each shire district's funding in excess of its safety net amount outside the pool. No shire district shall receive less than its safety net level outside the pool from these three preceding steps.

If this is still insufficient then a further deduction shall be made pro rata to every authority's funding target except Derby City Council. This is the only step at which an authority may receive less than its safety net level outside the pool.

If a shortfall seems likely to continue, consideration will be given to the future of the pool, including dissolution.

- 8.6 The pool arrangement will remain in place until any single authority or authorities say they wish to leave. Pool membership is reviewed on an annual basis to determine whether a significant change in business rates is expected and consequently whether the pool is still financially viable.

## **9. 100% Business Rates Pilot**

### *Memorandum of Understanding*

- 9.1 In October 2015, the Government announced a forthcoming package of reforms to the Business Rates Retention System including a move to Local Government retaining 100% of business rates with an end to the Revenue Support Grant (RSG).
- 9.2 As reported in the Medium Term Financial Plan (approved by Council in February 2018) it was announced in December 2017 that Derbyshire was successful in its application for all Authorities in the area to be a pilot for the 100% Business Rates Retention Scheme. Therefore, the Council's RSG allocation for 2018/19 (£580,000) reduced to zero, with an equivalent amount being rolled into the business rates Baseline funding level. The Council's share of retention increases from 40% to 50% and the levy rate is zero.
- 9.3 At this stage, the pilot is only applicable to 2018/19 and the Council will return to 50% pool from 2019/20 - pending further updates from Government.
- 9.4 **Annex A** details the Memorandum of Understanding (MOU) for the 100% pilot as drafted and agreed by all Derbyshire pool participants.
- 9.5 Derby City Council are the Lead Pilot Authority and will be responsible for administering the scheme (and will be reimbursed accordingly).
- 9.6 One of the important principles of the pilot scheme is that members should be no worse off than if they were outside the pilot (so compared to the previous 50% pool)
- 9.7 Section 151 Officers shall be responsible for overseeing the operation of the Pilot and making recommendations to their respective authorities about the way forward.

### *Financial Implications*

- 9.8 The financial implications of the 100% pool will be closely monitored – the monitoring process will be led by Derby City Council, we are currently awaiting the projected forecasts based on the quarter 1 submissions from participants. This will be fed into the quarter 2 financial reports presented to the Committee.
- 9.9 Therefore, for this report, the initial growth financial forecasts undertaken by consultancy firm Pixel have been used to illustrate the potential financial implications to High Peak B.C.

- 9.10 As detailed in the MOU, there is to be no detriment to participants as a result of the pilot, compared to what would have been received as part of the 50% pool – known as the ‘minimum funding level’. The minimum funding level is deducted from the actual business rates growth per authority, the remaining amount is then multiplied by 70%. The remaining 30% is then held centrally in an Economic Prosperity Fund (see section 10).
- 9.11 At the initial forecasting model stage, this 70% was forecast to represent approximately £255,000 in retained Business Rates for High Peak B.C.
- 9.12 It should be noted that whilst Government has provided a ‘no detriment’ guarantee for the pilot, this is as a whole, not individually (see paragraph 11.2B of the MOU). So if any member suffers a detriment, but the pool is still in gain, the other pool members must pay for the detriment. In the example included in the MOU (Appendix 2b), if one Authority suffered a £500,000 loss, it illustrates a cost to HPBC of approximately £4,750.
- 9.13 The projected £255,000 represents the retained growth in Business Rates element, in addition, the Business Rates retention percentage has increased from 40% to 50%. Latest projections suggest the Council could be approximately £240,000 better off compared to when the budget was set in February – largely due to S31 grants and the fact they were factored in to the MTFP at the 40% rate rather than the 50% for prudence.
- 9.14 Therefore overall, the initial potential projections illustrate a benefit of approximately £500,000 to High Peak B.C as a result of being part of the 100% pilot in 2018/19. It must be stressed that the projections are based on the initial model – there will be some more certainty around the forecasts once the quarter 1 figures are circulated (which will take into account the performance of other participants too). Plus a number of variables have an impact on overall Business Rates retention levels, so caution around the forecasts is taken at this stage. Consequently only £150,000 has been assumed as additional retention within the quarter 1 financial report also presented to this Committee.

## **10. Economic Prosperity Fund**

- 10.1 As per the forecasts modelled by consultancy firm Pixel, the overall estimated additional income to the pool as part of the 100% Pilot in 2018/19 (as opposed to the continuation of the previous Business Rates Pool in operation in 2017-18) is circa £28 million. Of this amount, it has been proposed that 30% of this is to be allocated to the ‘Derby and Derbyshire Joint Committee for Economic Prosperity’ via its Accountable Body, Derbyshire County Council, to support new business and business growth across the County.
- 10.2 The aim of which is to increase business rates income to Derbyshire and consequently enhance retained income for pool participants.
- 10.3 It is estimated that approximately £8million will be held in this fund – with £2m ringfenced to mitigate against volatility within the pool, leaving £6m to support business growth in the County.

10.4 A proportion - 25% - of the allocation to the Derby and Derbyshire Joint Committee for Economic Prosperity will be held back by the Lead Authority, Derby City Council to help militate against any risk of business rates volatility.

10.5 Objectives for the use of the growth fund have been developed which are to:

- Ensure the pilot demonstrates alignment to the original business case (essentially these were around Derbyshire's economic profile and mix of SMEs/ tier 1 industries, employment rate and growth potential).
- Utilise the fund on an 'invest to generate' basis to bring about greater business rate benefit either quicker or to a greater extent (including medium to long term).
- Protect, support and retain existing businesses (and consequential rates) alongside generating/ attracting new business.
- Fund projects that other funding programmes, broadly, do not reach – the 'Heineken' approach. This may include supporting some longer term projects with potentially indirect benefits.
- Create a methodology that will assess 'what uplift in business rates the project/ proposal will deliver' and endorse Green Book principles.
- Ensure maturity, flexibility and proportionality in the application of assessment criteria, depending on the size and nature of projects – and is mature and flexible enough to cope with different sorts of projects.
- Ensure a good geographical spread of projects across the county and across the rural/ urban dynamic so that all areas benefit from growth and enhanced business rate returns.
- Make sure the 'right things got done', rather than creating a framework that only promotes/ supports certain types of projects. This includes using the fund to address some elements of current market failure (e.g. demand/ supply issues on business premises).

10.6 Further to considerable discussion across the 10 local authorities and having regard to the pressing needs and issues around supporting economic growth, it has been agreed to create three distinct funding 'baskets' within the business rates economic growth fund. It is anticipated this will provide the best opportunity to support the likely nature of projects to come forward. The three proposed strands of funding are as follows:

1) *Business support grant (20% of the fund)*

- The purpose of the fund is to support existing D2 businesses to survive, expand, evolve or relocate and would help create increased investment, job creation and business rates across the county and city.
- Examples of activity could include work to support improved productivity, technology, systems, supply chain and skills development within businesses.
- Likely measures of success for the impact of the grant scheme would include: turnover or profitability, the value of contracts awarded, diversification into new markets etc.
- In terms of complementarity, this strand of funding will not duplicate current grant schemes (e.g. the Derby and D2 Enterprise Growth Funds, digital business growth or the D2N2 Energy Efficiency grant) but will provide an

alternative source of funding to SMEs where smaller capital and revenue grants are required. Grant size is proposed to be between £2,000 and £25,000.

- Grants will be available to micros, SMEs and start-ups with a requirement for match funding (up to 50%).
- Similar grant schemes, such as Global Derbyshire, have been highly successful in the past and based on the current level of understanding/ local intelligence, the need/ demand for such as fund is anticipated to be high.
- Derby City Council currently hosts a similar scheme and given their current 'green light' rating from Government, it is proposed that the existing mechanisms, governance and management arrangements in Derby City be extended to cover the new business support grant (e.g. investment panel for awards of £20,000+ and virtual 'committee' for those below). Governance will be developed to ensure a streamlined/ light touch approach to application and awards process.
- For the purpose of clarity, the finances of the business support scheme will remain separate to those of the Enterprise Growth Fund.
- It is proposed that an appropriate percentage of the fund be allocated to cover administration costs (to be confirmed) – due to the anticipated volume of grants to be awarded given the size of the fund available.

## 2) *Enabling Future Delivery – approximately £1m initially*

- The value of the 'enabling fund' is currently proposed to be around 10% of the total economic growth pot: approximately £1m. However, this may need to be reviewed depending on volume and quality of proposals coming forward.
- The purpose of this fund is to provide monies to help bring forward well-considered and deliverable projects capable of providing an uplift to business rates in future years. Essentially, it is focused on pump priming future development and the type of activity potentially covered by the fund includes feasibility studies and other pre compliance work. As a result, it is not appropriate to set an upper or lower limit to the grant applications at this stage.
- Importantly, this strand will be funding work that other grants streams do not support i.e. the early stages of business case development that under normal circumstances are revenue funded and hence, difficult to resource.
- The key measure of success for this area of work will be the resulting quality of the pipeline of good, value for money projects – that will be capable of taking immediate advantage of other funding streams (e.g. LGF, HIF etc) as and when they become available.
- It is proposed that whilst ideas for projects may be generated from either the public or private sector, the approved projects will need to be sponsored by one of the local authorities represented on the Joint Committee.
- The nature of this fund means that inevitably, some of the impacts of the feasibility work will only be known over the long term and outputs of this strand won't always result in a direct/ immediate return on investment. However, it is

proposed that indicative outputs be identified – to be monitored over the longer term.

- It is proposed the criteria against which projects will be assessed will cover the following aspects:
  - Strategic fit of the proposal or project e.g. to the themes and objectives of key local strategies (e.g. HS2 Growth Strategy, local plans etc).
  - Anticipated return on investment re: value for money
  - Overview of the issues to be addressed ahead of delivery (e.g. planning permissions; consents; land assembly; other funding etc).
- The depth to which projects will be required to provide information on these (or any additional criteria) will be proportionate to the degree of risk and funding being sought. In any event, a pragmatic and mature approach to assessment will be undertaken.
- No such grant scheme exists currently and it is likely the management of the assessment process could require significant resources as it is already clear this particular strand of funding will be popular. It is therefore proposed to secure the input of an independent consultant (e.g. as per LGF assessments) to support this work; it is proposed this be resourced through an appropriate fee (to be confirmed) top sliced from the fund.

### 3) *Economic Impact (approximately 70% of the fund)*

- This is a key strand of the BR funding pot as essentially, it will be supporting direct business rate retention or uplift through (primarily) capital projects, but exclusively.
- Further to detailed discussion with officers across the County, it is considered the need for capital support is split into two: those which have an obvious, direct impact on business rate uplift and those which are likely to be equally important but where economic impact is not direct (ie improvements to quality of place and ensuring attractiveness to inward investment) and therefore have a more challenging test on return on investment.
- The total financial value of strand 3 is approximately £5.6m - notwithstanding that 25% needs to be held back until the final BR pot is confirmed (see above).
- It is proposed that approximately 40% (£3.2m) will be focused on supporting those projects which have a direct impact on business rate uplift e.g. development of new business units, infrastructure, refurbishments with the remainder (£2.4m) on those which improve quality of place e.g. gateway features, 'enveloping' schemes, environmental improvements, access and connectivity, supporting sector growth and attracting inward investment.
- Key measures of success for this strand of fund will include business rate returns and uplift, new business starts, business retention, job numbers, financial spend, inward investment enquiries etc as appropriate.
- In terms of complementarity, this strand of funding will not duplicate current grant schemes (e.g. LGF, GPF and HIF) but will offer a source of funding that addresses known need that cannot be met through existing sources. No lower or upper limit is proposed to the grant application at this stage but awards will be dependent on size of risk and return on investment.
- It is proposed that whilst ideas for projects may be generated from either the public or private sector, the approved projects will need to be sponsored by one of the local authorities represented on the Joint Committee.

- The proposed assessment criteria for projects will be reflective of Green Book appraisals and will cover the following issues:
  - Strategic – not likely to be a ‘pass or fail’ test but will require a rationale for the project and a description of how it supports policies and plans.
  - Economic - seeks to establish the value for money of a project, so will be a key element of determining priorities. Where there is a direct estimate of business rate uplift it will fall within this assessment.
  - Commercial - seeks to identify the degree of confidence of the promoter both in the delivery of the project and in the response it will generate from users (the public, owners and occupiers of buildings etc.).
  - Finance - intended to establish that all of the funding required for the project, not just for its delivery but over its whole life, are in place. The level of match funding required (if any) will need to be subject to further discussion.
  - Management - intended to give confidence that the promoting authority is in a position to successfully deliver the project through appropriate management, procurement and monitoring systems.
- Whilst similar grant schemes exist, the assessment tests (e.g. on LGF) are necessarily high and are preventing some valuable projects coming forward. Strand 3 aims to address this issue and as a result, it is likely there will be a high number of applications for funding. The management of the assessment process will therefore require significant resources so it is proposed to secure the input of an independent consultant (e.g. as per LGF assessments) to support project appraisal; it is proposed this be resourced through an appropriate fee (to be confirmed) top sliced from the fund.

# **Derbyshire Business Rates Pilot 2018-19**

## **DRAFT**

### **Memorandum of Understanding**

This Memorandum of Understanding is made between:

**Amber Valley Borough Council  
Bolsover District Council  
Chesterfield Borough Council  
Derby City Council  
Derbyshire County Council  
Derbyshire Dales District Council  
Derbyshire Fire & Rescue Service  
Erewash Borough Council  
High Peak Borough Council  
North East Derbyshire District Council  
South Derbyshire District Council**

Together referred to as the 'Pilot' or 'Pilot Members

#### **1 Purpose**

- 1.1 Eleven authorities within the county of Derbyshire have joined together to form the Derbyshire Business Rates Pilot in order to provide the most cohesive approach possible to furthering economic development and financial sustainability in the county.
- 1.2 The estimated additional income to the formation of the Pilot in 2018/19 (as opposed to the continuation of the previous Business Rates Pool in operation in 2017-18) is circa £28m and 30% of this amount – circa £8m, - is to be allocated to the Derby and Derbyshire Joint Committee for Economic Prosperity via its Accountable Body, Derbyshire County Council, to support new business and business growth across the county. The remainder, 70%, is to be retained by each individual authority. See Appendix 1 for the PIXEL pilot model agreed at DFOA on 13th April 2018.
- 1.3 A proportion, 25%, of the allocation to the Derby and Derbyshire Joint Committee for Economic Prosperity will be held back by the Lead Authority, Derby City Council (circa £2m) to help militate against any risk of business rates volatility.
- 1.4 Derby and Derbyshire Joint Committee for Economic Prosperity's allocation will also be net of a contribution to the administration fee for the Lead Authority.

- 1.5 It is the express intention of the Pilot Members to develop and promote economic, environmental and well-being of the communities we serve. By working together we can provide an opportunity to promote further economic growth as well as building financial resilience.
- 1.6 It is the purpose of this Memorandum of Understanding to act as a Statement of Intent that will support the realisation of these benefits in 2018/19.
- 1.7 The Pilot Members have agreed to enter into this Memorandum of Understanding to formalise their commitment and to set out their respective roles and responsibilities.

## 2 Glossary of Key Terms

- 2.1 There are a number of technical terms used throughout this document. The meanings of these terms are as follows:-

Pilot	Derbyshire Business Rates Pilot to provide the most cohesive approach possible to furthering economic development and financial sustainability in the county, to enable the Government to develop its 100% Business Rate ambitions from 2020/21.
No Detriment	No outcome for any authority should be below the Minimum Funding Level.
Lead authority	The Pilot member who will act as the lead in managing the Authority Pilot's resources in accordance with clause 9.1 of this memorandum and being the key contact between central government and the Pilot – Derby City Council.
Growth Distribution	Agreed growth distribution outlined in the model provided by PIXEL (Mechanism agreed in the PIXEL model with final figures being calculated at year end)

## 3 Key Principles

- 3.1 The Pilot Members agree that they will operate the Pilot in accordance with the following principles:

- Increase in Resources  
The Pilot Members recognise that the fundamental objective of the Pilot is to generate increased resources for the area, and individual Pilot Members through business rates growth. The Pilot provides the most cohesive approach possible to furthering economic development and financial sustainability in the county.
- Risk Management  
The Pilot Members agree to protect and mitigate as far as possible the risks

associated with the level of business rate income. Income streams to the Pilot Members may be more volatile, whether as the result of a one-off event (for example a successful large rating appeal causing a significant reduction in rate income) or something structural within an area (for example the closure of a major plant). The Piloting arrangements should reduce this volatility. The Government provided a 'No Detriment' guarantee for the 2018/19 pilot.

- **Fairness**  
The Pilot Members agree to share the costs, risks and benefits of local business rate retention proportionately to their growth distribution. Pilot Members should be no worse off than if they were outside the Pilot. Derby City Council, as the Pilot's Lead Authority will be reimbursed by £50,000 for treasury management and administration costs incurred in managing the Pilot. These costs will be split on a proportion of the gain (the final growth distribution, the mechanism is highlighted in the agreed PIXEL model attached at Appendix 1, with an example of the distribution at Appendix 2 (A.1).
- **Transparency, Openness and Honesty**  
Pilot Members will be open and trusting in their dealings with each other, make information (i.e. NNDR1) and analysis available to each other, discuss and develop ideas openly and contribute fully to all aspects of making the Pilot successful. It also includes sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.
- **Reasonableness of Decision-Making**  
Pilot Members agree that all decisions made in relation to this Memorandum of Understanding shall be made by them acting reasonably and in good faith. All decisions should be made by reaching a consensus position.

#### **4 Binding Memorandum**

- 4.1 This Memorandum of Understanding (MOU) is produced as a Statement of Intent and, with the exception of Sections 5, 10 and 11, is not intended to be legally binding.
- 4.2 Sections 5, 10 and 11 are intended to be legally binding and to create obligations between Pilot Members with immediate effect from the execution of this MOU.

#### **5 Term of Memorandum**

- 5.1 This MOU shall continue to be in place for 2018 / 19 only.

#### **6 Decision-making**

- 6.1 The Section 151 Officers shall be responsible for overseeing the operation of the Pilot and making recommendations to their respective authorities about the way forward.
- 6.2 Derby City Council, as the Lead Authority shall ensure that reports are sent to the Section 151 Officers and Chief Accountants of each Pilot Member at least on a quarterly basis updating them of the performance of the Pilot and advising them of

any issues. These reports should be available within six weeks of the quarter end, providing information is submitted to the authority in a timely manner.

- 6.3 For the avoidance of doubt, any substantive decision e.g. commitment of resources, changes in governance or major operational changes shall be referred to each Pilot Member's decision-making regime.

## **7 Dispute Resolution**

- 7.1 The Pilot Members shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of, or in connection to, this MOU. If this cannot be resolved by the Section 151 officers it will be referred to a meeting of all Member authorities Heads of Paid Service for resolution.

## **8 Resourcing**

- 8.1 Each Pilot Member will provide the appropriate resources and will act with integrity and consistency to support the intention set out in this MOU.
- 8.2 In the event that the Lead Authority needs to incur additional expenditure in order to administer the Pilot, any reasonable costs agreed by Pilot members should be the first call on the Net Retained dividend on a % gain basis (Methodology to be agreed).

## **9 Lead Authority**

- 9.1 Derby City Council will act as the Lead Authority for the Pilot.
- 9.2 The responsibilities of the Lead Authority are:
- To make payments on behalf of the pilot members for a schedule of payments to be agreed by the Pilot Members
  - To liaise with, and complete all formal Pilot returns to central government on behalf of Pilot Members; if required
  - To keep Pilot Members informed of all relevant communications with central government with regard to the pilot
  - To manage the resources of the Pilot in accordance with this MoU
  - To prepare the quarterly and annual reports of the Pilot's activity, information to be returned to Derby City Council (within 6 weeks of quarter end/year end)
  - To consult on and administer the schedule of payments between Pilot Members in respect of all financial transactions that form part of the Pilot's resources
  - To lead on the timely provision of the information required, by Pilot Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pilot, subject to timely returns from Pilot members.

- 9.3 To assist Derby City Council, as the Lead Authority in fulfilling this role, the responsibilities of individual Pilot Members are:
- To make payments to the Pilot on time and in accordance with the schedule of payments
  - To provide accurate, timely information to the Lead Authority to enable all formal Pilot returns to Central Government to be completed
  - To inform Derby City Council as soon as is practical, of any intelligence that may impact on the resources of the Pilot in the current year
  - To provide such information as the Section 151 Officers agree is reasonable and necessary to monitor/forecast the Pilot's resources within the timescales agreed
  - To provide such information as the Section 151 Officers agree is reasonable and necessary on the use of the Pilot's resources for inclusion in the Pilot's annual report
  - To provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable Derby City Council to calculate the end of year accounting entries needed.

## **10 Cash management**

- 10.1 The governing principle for the cash management of the Pilot is that no individual Pilot Member, including the Lead Authority, should incur a treasury management gain or loss as a result of the transfer of funds between Pilot Members.
- 10.2 The Pilot will receive/pay interest annually on any retained resource at the average investment rate of the Lead Authority by the 30th September each year.
- 10.3 Interest will be calculated on an annual basis and allocated to Pilot Members based upon a method agreed by the Section 151 Officers.
- 10.4 Where the Pilot is required to make a payment to the Secretary of State, each authority in the Pilot is jointly and severally liable for the payment made by the Lead Authority.
- 10.5 Any payment made 30 days after the due date may be subject to a late payment interest charge at base rate plus 4%.

## **11 Allocation of Pilot Resources**

### **11.1 Principles**

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

- 70% of the dividend to be retained by each authority
- 30% of the dividend to be allocated and 'ring fenced' to support economic growth in the county (subject to 25% Holdback)
- Each authority will receive its own share of the dividend based on the retained percentages:
  - Derby City Council 99%
  - Derbyshire County Council 49%
  - Derbyshire Fire and Rescue Service 1%
  - District/Borough Councils 50%

### **11.2 Basis of Allocation**

The underlying basis of allocation is as follows:

- A £50,000 as being the estimated running costs of the Pilot will be paid to Derby City Council as the Lead Authority from all participants including the Derby and Derbyshire Joint Committee for Economic Prosperity.
- B Each individual authority will retain 70% of their own dividend subject to funding any detriments within the whole scheme.

It should be noted that government provided a one year 'no detriment' guarantee for being a 2018/19 100% Business Rates Pilot in the event of all of the pilot suffering a loss below the Minimum Funding Level.

If there are individual losses but across the authorities there is a gain then the local agreement would be in place – example at Appendix 2 (A.2).

Each authority will receive its own share of the dividend based on the retained percentages:

- Derby City Council 99%
- Derbyshire County Council 49%
- Derbyshire Fire and Rescue Service 1%
- District/Borough Councils 50%

## **12 Review arrangements**

- 12.1 A review will take place if the MHCLG issue further guidance or requirements throughout the year.

## 13 Signatories on behalf of the Pilot Members

Section 151 Officers:

Amber Valley Borough Council  Sylvia Delahay	Bolsover District Council / North East Derbyshire District Council  Dawn Clarke
Chesterfield Borough Council  Kevin Hanlon	Derby City Council  Don McLure
Derbyshire County Council  Peter Handford	Derbyshire Dales District Council  Karen Henrickson
Derbyshire Fire & Rescue Service  Simon Allsop	Erewash Borough Council  David Watson
High Peak Borough Council  Andrew Stokes	South Derbyshire District Council  Kevin Stackhouse

100% pilot modelling

County	Derbyshire
100% Business Rate Pilot	Derbyshire

Minimum Funding Level	0.000
Strategic funding pot	8.113 30%

Safety net (local authority)	92.5%
Safety net (100% pilot)	97.0%

100% pilot

	Tier split	Business Rates Baseline	Baseline Funding Level	Top-up/Tariff	Safety Net Threshold (local authority)	Share of retained rates	Share of retained rates (after top-up or tariff)	Retained rates compared to BFL	Safety net payment	"No Detriment"	Retained rates plus safety net and "no detriment" compared to BFL	Minimum Funding Level	Growth distribution	MFL + Growth Distribution	Amount Below MFL	Scaling Funds	Scaling Amount	Retained rates (after levy and safety net) compared to BFL	Share of gains
Derbyshire	49%	94.179	137.210	43.031	133.093	113.754	156.785	19.575	0.000		19.575	5.627	9.764	15.391	0.000	13.949	-4.185	15.391	26%
Derbyshire Fire Authority	1%	2.730	13.352	10.622	12.952	3.467	14.089	0.737	0.000		0.737	0.737	0.000	0.737	0.000	0.000	0.000	0.737	1%
Derby	99%	80.009	74.420	-5.589	72.188	100.087	94.498	20.078	0.000		20.078	10.580	6.648	17.228	0.000	9.498	-2.849	17.228	30%
Amber Valley	50%	15.031	3.567	-11.463	3.460	16.422	4.959	1.392	0.000		1.392	1.120	0.190	1.310	0.000	0.272	-0.082	1.310	2%
Bolsover	50%	10.366	4.373	-5.993	4.242	13.675	7.682	3.309	0.000		3.309	2.642	0.467	3.109	0.000	0.667	-0.200	3.109	5%
Chesterfield	50%	17.843	4.104	-13.738	3.981	19.824	6.086	1.981	0.000		1.981	1.589	0.275	1.864	0.000	0.392	-0.118	1.864	3%
Derbyshire Dales	50%	9.936	2.013	-7.923	1.952	11.201	3.277	1.265	0.000		1.265	1.012	0.177	1.189	0.000	0.253	-0.076	1.189	2%
Erewash	50%	11.821	3.759	-8.062	3.647	14.195	6.133	2.374	0.000		2.374	1.901	0.331	2.232	0.000	0.473	-0.142	2.232	4%
High Peak	50%	12.764	2.523	-10.241	2.448	14.586	4.345	1.822	0.000		1.822	1.457	0.255	1.712	0.000	0.364	-0.109	1.712	3%
North East Derbyshire	50%	7.287	3.036	-4.251	2.945	9.765	5.515	2.479	0.000		2.479	1.981	0.348	2.329	0.000	0.497	-0.149	2.329	4%
South Derbyshire	50%	11.008	2.766	-8.242	2.683	14.359	6.118	3.351	0.000		3.351	2.674	0.475	3.148	0.000	0.678	-0.203	3.148	5%
No detriment payment															0.000	0.000	0.000	0.000	0%
Strategic Investment Fund													8.113	8.113	8.113			8.113	14%
<b>TOTAL</b>		<b>272.973</b>	<b>251.124</b>	<b>-21.849</b>	<b>148.543</b>	<b>331.336</b>	<b>309.487</b>	<b>58.363</b>	<b>0.000</b>	<b>0.000</b>	<b>58.363</b>	<b>31.319</b>	<b>27.043</b>	<b>58.363</b>	<b>8.113</b>	<b>27.043</b>	<b>-8.113</b>	<b>58.363</b>	<b>100%</b>

0.000

Amount above safety net threshold	160.944	Increase in share	27.043	27.043
		Levy gain	7.188	0.000
		Safety net gain	0.000	0.000
			<b>34.231</b>	<b>27.043</b>
			0.000	0.000

Strategic share =	30%
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Scaling Amount required excluding "no detriment" payment	8.113
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**Example Based on current modelling  
(see next page)**

A.1 Payment to Derbyshire County  
Council

50,000

<b>Authority</b>	<b>Growth distribution</b>	<b>Payment to Derby</b>
Derbyshire	9.764	23,937
Derbyshire Fire Authority	0	
Derby	6.648	
Amber Valley	0.190	466
Bolsover	0.467	1,145
Chesterfield	0.275	674
Derbyshire Dales	0.177	434
Erewash	0.331	811
High Peak	0.255	625
North East Derbyshire	0.348	853
South Derbyshire	0.475	1,165
D2	8.113	19,890
<b>Total</b>	<b>27.043</b>	
<b>Total Without Derby for calculation</b>	<b>20.395</b>	<b>50,000</b>

A.2 Example - Amber Valley has a £500k  
problem below MFL

500,000

<b>Authority</b>	<b>Growth distribution</b>	<b>Issue</b>	<b>Payment for Amber Valley</b>
Derbyshire	9.764		181,805
Derbyshire Fire Authority	0		
Derby	6.648		123,785
Amber Valley		-0.500	
Bolsover	0.467		8,695
Chesterfield	0.275		5,120
Derbyshire Dales	0.177		3,296
Erewash	0.331		6,163
High Peak	0.255		4,748
North East Derbyshire	0.348		6,480
South Derbyshire	0.475		8,844
D2	8.113		151,063
<b>Total</b>	<b>26.853</b>		
<b>Total Without Amber for calculation</b>	<b>26.853</b>		<b>500,000</b>