

## **Cabinet – 26 October 2016**

### **Business Rate Pilot Project**

**Portfolio:** Councillor S. Coughlan – Leader of the Council

**Related portfolios:** None

**Service:** Finance

**Wards:** All

**Key decision:** No

**Forward plan:** N/A

#### **1. Summary**

- 1.1 That the council participates in a business rate pilot project covering the West Midlands combined authority on a no detriment basis and in accordance with the terms outlined in this report.

#### **2. Recommendations**

##### **That Cabinet:**

- 2.1 Approve that Walsall Council, as one of the Constituent Members of the West Midlands Combined Authority, participates in a business rates retention pilot from April 2017, on a no detriment basis and in accordance with the terms outlined in this report.
- 2.2 Approve that Birmingham City Council act as lead authority in order to co-ordinate arrangements and liaise with DCLG over all matters relating to the pilot and that a fee is payable in recognition of any costs incurred relating to this role.
- 2.3 Delegate authority to the Cabinet Member for Finance, in consultation with the Chief Finance Officer, to approve any changes to the terms outlined in this report, which may be necessary as the negotiation of the detailed terms of the pilot are progressed by the Combined Authority.
- 2.4 That agreement to participate is subject to each individual constituent member authority's decision on whether to proceed with the pilot.

### **3. Report detail**

- 3.1 The Government has announced that it intends to introduce a national scheme for the full local retention of all business rates, potentially from 2020/21 onwards.
- 3.2 Areas that have agreed a Devolution Deal have the opportunity to be involved in a 100% business rates retention pilot, which will begin from 1 April 2017. This provides the opportunity to shape national thinking about the eventual scheme, and to take forward further devolution. Conversations about the potential for a West Midlands pilot have taken place in parallel with discussions about a Devo 2 deal. Each pilot will incorporate some core design principles, but there is some flexibility around what else is included.
- 3.3 The Department for Communities and Local Government (DCLG) have now clarified that this is open only to Constituent Member Authorities of Combined Authorities. Subject to approval by each local authority and by Ministers, each of the seven West Midlands Metropolitan District Councils could be involved in a pilot should they wish. It is important to note that, each authority would need to agree to participate for the pilot to go ahead.
- 3.4 The Government has confirmed that pilots will operate on a no financial detriment principle. In other words, authorities cannot be worse off financially than they would otherwise have been had they not participated in a pilot. Following detailed scrutiny of the way in which a pilot will operate, it has become clear that there is likely to be a windfall benefit to authorities as a result of being part of a pilot.
- 3.5 Some matters are still the subject of on-going discussion with DCLG Officials, and also local arrangements will need to be put in place, as detailed to in this report, these matters are being finalised by Councillor Bob Sleigh, Chair of the West Midlands Combined Authority, in consultation with the Strategic Director – Finance & Legal of Birmingham City Council. It is therefore necessary to delegate authority to the Cabinet Member for Finance in consultation with the Chief Finance Officer, to approve any changes to the terms outlined in this report, which may be necessary following the outcome of these negotiations.
- 3.6 Should the individual authorities and Ministers wish to proceed, there is a need for the Government to commence the necessary legal process by late October. This means that a firm indication to this effect must be given by early October, although this could be subject to formal governance processes at each authority during October.

### **4. Participation in the Pilot**

- 4.1 Whilst discussions have been held on several occasions about the potential for a pilot to include all Member Authorities of the Combined Authority, it has now been clarified by DCLG that the opportunity is only available to Constituent Member Authorities.
- 4.2 It will be necessary for one of the authorities to act as Lead Authority in order to co-ordinate arrangements, and to liaise with DCLG. It is therefore recommended that Cabinet approve that Birmingham City Council undertakes this role. It would

be appropriate to pay a small fee in recognition of the additional administrative costs incurred.

## **5. 100% Business Rates Retention Pilot Design**

- 5.1 A 100% business rates pilot will involve:
- A way of understanding how 100% business rates retention will impact on local authorities by testing it out in practice,
  - An opportunity to shape national thinking about how 100% retention could work with no risk of financial detriment across the devolution deal area,
  - Each individual local authority deciding whether or not it wishes to participate, although it should be recognised that it will be necessary for all of the Metropolitan Authorities to agree for the pilot to go ahead,
  - Each local authority still receiving its own “settlement” from the Government, collecting and retaining its own business rates and setting its own budget.
- 5.2 There will be some core elements that will feature in each pilot from 1 April 2017:
- Further local business rates retention (up to 100%),
  - Removal of Revenue Support Grant,
  - Appropriate adjustment to Top-ups/Tariffs, to reflect the net effect of the above two changes,
  - Participation will be on a “no detriment” basis. In other words, the area will be no worse off financially than it would otherwise have been had it not participated in the pilot.
- 5.3 References throughout this report to “business rates” also includes grants received as compensation for the impact of Government policy decisions in respect of business rates, such as small business rate relief. These grants will double under the pilot, when the current central share is retained locally.

## **6. No Detriment**

- 6.1 The Government will calculate what resources would have been available to the authorities had they not participated in the pilot, and will compare that with the actual resources retained in business rates. Should the latter be a lower amount, then the Government will pay an additional grant so that authorities are no worse off through participation in the pilot. There is, therefore, no financial risk arising from participation.
- 6.2 The “no detriment” provision would be implemented by the Government on a collective basis, for the pilot area as a whole. It is proposed that a local decision is taken to extend this protection to each individual participating authority. An appropriate internal mechanism will need to be agreed locally, to ensure that this is the case. However, it is only those resources which are a windfall that might need to be redistributed in this way. On this basis no authority could be worse off through participation in the pilot.
- 6.3 Paragraph 6.5 below refers to the existing agreement with Government, as part of the Devo Deal, that the growth from 1 April 2016 onwards in the current “central share” of business rates is ring-fenced to the Combined Authority to assist in the funding of the £8 billion investment programme. Subject to the further dialogue referred to below, authorities will need to commit to contributing

these resources to the Combined Authority. However, this requirement will be taken into account in the Government's "no detriment" calculation.

- 6.4 The current system of business rates retention has been in place since 2013/14. As part of discussions concerning a potential pilot, the Government has clarified that any real terms growth in the central share since then will be available to the West Midlands. Growth in the central share from 2016/17 onwards is covered by the Devo Deal and will accrue to the Combined Authority, but we anticipate that agreed growth up to that point will be available to the Councils solely as a result of participating in the pilot.
- 6.5 The level of these additional resources available to Councils will depend upon confirmation of figures for 2015/16 and agreement being reached with DCLG on how to measure the starting point for the calculations under the Devo Deal.

## **7. Devolution**

- 7.1 As part of developing the proposal for a pilot, there has been an opportunity to propose further devolution, whether that be the transfer of responsibilities or the incorporation of separate funding streams into the business rates funding mechanism. This would provide an opportunity to test out such further devolution within the safe confines of a "no detriment" arrangement.
- 7.2 Proposals for such further devolution need to be both detailed and specific. DCLG has provided details of grants/responsibilities where some inter-Government Department dialogue has already taken place and, therefore, where implementation would be less contentious. The list is not extensive and may, in some instances (e.g. Public Health), be restricted to issues which have already been incorporated into Devo Deals.
- 7.3 The implementation of further devolution in this way does not have to be effective from 1 April 2017; there is an option to continue dialogue with DCLG and other Government departments, with a view to inclusion in the pilot at a later stage.
- 7.4 In view of the need to take swift decisions on whether or not to participate in a pilot, it is proposed that, from 1 April 2017, it be restricted just to the core elements described in para 5.2 above. However, it is further proposed that there is on-going dialogue with Government in order to seek agreement on further devolution of responsibilities/grants in due course.
- 7.5 The West Midlands Devo Deal includes the Combined Authority receiving the real terms growth in the central share of business rates, from April 2016 onwards. When the full national system of 100% local retention of business rates is introduced in a few years' time, this element of the Devo Deal will need to be re-visited as there will no longer be a "central share". Therefore, Officers have sought to negotiate the inclusion of a new arrangement in a pilot, in order to test out a different approach. These negotiations are still on-going, and so there isn't a guarantee that it will be possible to incorporate something in time for April 2017. However, this element of funding will, as a minimum, still be protected under the "no detriment" arrangements for the duration of the pilot.

## **8. Other Matters**

- 8.1 Participation in the pilot will not require any changes to existing business rates pools. Therefore, the Coventry & Warwickshire and GBSLEP business rates pools will be able to continue with their existing arrangements, and with all existing commitments being honoured. These will be taken into account in the “no detriment” calculation. Existing and any new Enterprise Zones will also not be affected by the pilot.
- 8.2 In the existing business rates retention system, authorities are protected by a “Safety Net” in the event that their locally retained business rates fall more than 7.5% below the baseline figure in any year. An equivalent, but lower, figure will need to be agreed for a pilot; authorities would not want to bear the risk of exposure to a 7.5% reduction in the full amount of business rates. Discussions are on-going on this detail, although it should be noted that authorities will, in any case, be protected by the “no detriment” arrangement.
- 8.3 The Government is considering a new approach to the management of the risk of business rates appeals under the full national business rates system. It is proposed, as part of the pilot, that the West Midlands authorities agree to undertake a desktop analysis of how this approach might work in practice in order to shape the Government’s thinking on this matter.

## **9. Timescales**

- 9.1 Should the individual authorities and Ministers wish to proceed, there is a need for the Government to commence the necessary legal process by late October. This means that a firm indication to this effect must be given by early October, although this could still be subject to formal governance processes at each authority during October.
- 9.2 A decision to participate will be taken by each authority individually, and not by the Combined Authority; this will be taken in accordance with local governance arrangements.
- 9.3 Figures calculated on the basis of participation in the pilot would then be incorporated into the Local Government Finance Settlement in December.

## **10. Financial implications**

- 10.1 The financial implications are discussed in the body of the report.

## **11. Legal implications**

- 11.1 The Council's revenue budgets make assumptions which must be based on realistic projections about available resources, the costs of pay, inflation and service priorities and the likelihood of achieving any savings proposals.
- 11.2 The legal duty to spend with propriety falls under S.151 Local Government Act 1972 and arrangements for proper administration of their affairs is secured by the S.151 Officer as Chief Financial Officer

## **12 Property implications**

12.1 None directly arising from this report

## **13. Health and wellbeing implications**

13.1 None directly arising from this report

## **14. Staffing implications**

14.1 None directly arising from this report

## **15. Equality implications**

15.1 None directly arising from this report

## **16 Consultation**

16.1 7 West Midlands Finance Directors

### **Author**



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Councillor S Coughlan  
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18 October 2016