

## FORM 2

### NOTICE OF DECISION OF CABINET MEMBER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

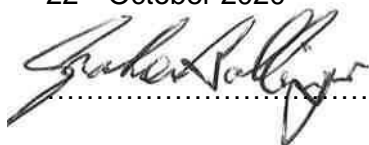
In accordance with the authority delegated to me, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Business Rate Pooling Arrangements for 2021-22	The final decision to continue with membership of the current Worcestershire Business Rates Pool (WBRP) for 2021-22 is delegated to the Corporate Director: Resources in consultation with the Cabinet Member for Strategy and Finance.	A decision on whether or not to continue with membership of the current WBRP for 2021-22 needs to be made by the MHCLG deadline of the 23 <sup>rd</sup> October 2020. The proposed delegation allows this decision to be progressed	23 <sup>rd</sup> October 2020

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: 22<sup>nd</sup> October 2020

Signed:



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Councillor Graham Ballinger  
Leader of the Council

**WYRE FOREST DISTRICT COUNCIL**  
**STRONG LEADER CABINET REPORT**

**OCTOBER 2020**

**Business Rates Pooling Arrangements for 2021-22**

<b>OPEN</b>	
<b>CABINET MEMBER:</b>	Councillor Graham Ballinger, Leader of the Council and Cabinet Member of Finance and Strategy
<b>DIRECTOR:</b>	Corporate Director: Resources
<b>CONTACT OFFICER:</b>	Tracey Southall Ext. 2100 <a href="mailto:tracey.southall@wyreforestdc.gov.uk">tracey.southall@wyreforestdc.gov.uk</a>
<b>APPENDICES</b>	None

**1. PURPOSE OF REPORT**

- 1.1 This report considers the Council's continued membership of the current Worcestershire Business Rates Pool (WBRP) for 2021-22. The deadline for submitting proposals for revised pooling proposals or confirmation of continuation of existing proposals is 23<sup>rd</sup> October 2020.

**2. RECOMMENDATION**

The Cabinet is asked to **DECIDE:**

- 2.1 **the final decision to continue the current Worcestershire Business Rates Pool (WBRP) for 2021-22 is delegated to the Corporate Director: Resources in consultation with the Cabinet Member for Strategy and Finance;**
- 2.2 **continued participation in pooling arrangements will be considered on an annual basis, taking into account relevant key issues set out in Section 4.**

**3. BACKGROUND**

- 3.1 The Council is currently a member of the Worcestershire 50% Pilot Business Rates Pool but these arrangements will cease on 31<sup>st</sup> March 2021 unless confirmation is made to MHCLG of the pool's intention to continue in 2021-22, or request the revocation of the pool designation.
- 3.2 The Government is still planning to make changes to the business rates system but this has been further deferred given the ongoing impact of the COVID-19 pandemic on the business and property sector. The Autumn budget has been cancelled. A comprehensive spending review "in the last weeks of November" will set one year budgets, and this apparently will include local government funding.

- 3.2 The Ministry of Housing, Communities and Local Government ('The Ministry') has invited Councils to indicate their preferred pooling arrangements for the financial year, 2021-22.
- 3.4 Part 9 of Schedule 7B to the Local Government Act 1988 states that the Secretary of State can designate two or more local authorities as a "pool" for the purposes of the business rates retention scheme, providing that those authorities agree to the designation.
- 3.5 By law, if pools are to be created for 2021-22, the Ministry must make the necessary designations by the time of the 2021-22 provisional Local Government Finance Settlement. Unless designations are made by this date, a pool cannot be brought into existence for 2021-22.
- 3.6 The deadline for submission of proposals for 2021-22 pools is 23<sup>rd</sup> October 2020.
- 3.7 The current Worcestershire 50% Pilot is forecast to be beneficial despite the impact of COVID-19 enabling additional levy to be retained locally, currently estimated to be between £2.7m and circa £1.3m for the year. The wide range is due to the uncertainty around the impact of the ongoing pandemic. This will be used to help relieve funding pressures across all Pool members. These arrangements are for one year only and the Council must now make a decision for 2021-22.
- 3.8 The former Worcestershire Business Rates Pooling arrangements have operated successfully from 2013-14 to 2019-20, enabling volatility risks to be shared with other councils and also additional financial benefits in terms of levy on business rates growth that was retained locally rather than paid over to the Government.

#### **4. KEY ISSUES**

- 4.1 We now need to consider our membership of a Worcestershire or any other business rates pool for 2021-22. All of the other Worcestershire Councils have indicated that they wish to continue with the current Worcestershire Business Rates Pool arrangements.
- 4.2 LG Futures have been commissioned to undertake detailed financial modelling of the potential Pooling proposals for 2021-22. Given the prevailing uncertainty around the economy this was not without its challenges however, extensive sensitivity and risk analysis has been undertaken as part of the work. This showed that it is unlikely that continuation of the current Pool would not be beneficial.
- 4.3 The benefits of being in a Pool in terms of levy being retained locally remain are currently forecast to continue despite the impact of the ongoing pandemic but due to the economic volatility this will be kept under close review.
- 4.4 Pool membership also allows for a degree of risk sharing between Pool members, provided losses are not significant and that there are sufficient resources within the overall retained levy to compensate councils with business rate losses. In summary, Pool membership benefits are:

- To drive forward economic growth through increased collaboration amongst members;
- To allow local retention of levy on business rates growth which would otherwise be paid to Government;
- To provide a degree of protection against business rates through appropriate provision in the Governance Arrangements

4.5 As a general principle the Worcestershire Pool and other Pools locally operate on the principle that no council is worse off in the Pool than outside the Pool. This means that the amounts paid into the Pool by councils are limited to the levy amount that they would have otherwise paid to the Government. However, in the event of significant losses, as in the case of the revaluation of GP surgeries, then the amount available from the Pool may be less than would be available from the Government National safety net facility.

4.6 The most significant factor in the Council's decision regarding Pool membership from 1 April 2021 is our view on the probability of further significant business rate losses in Wyre Forest, exacerbated by the impact of COVID-19 and the uncertainty around the continuation of the significant reliefs provided by Central Government in 2020-21. Based on current forecasts we are not predicting such losses. Uncertainty around the claims for mandatory business rates relief for NHS Hospital Foundation Trusts remains; this is a national issue and it is unknown if the appeal against the High Court decision will be settled in the timeframe for the proposed 2021-22 Pool. The claims continue to be strongly refuted with the LGA working closely with Councils and as such are not recognised within the accounts. The Pool has performed well previously with all members being better off in the Pool. Malvern Hills came out of the Pool following the GP Surgery losses but re-joined for the 75% Pilot in 2019-20.

4.7 The proposal for the governance arrangements is that there is a similar position for the shares of the retained levy as for the former WBRP but without a Risk Reserve. However, there will be provision within the governance arrangements to ensure there is protection for Pool Members if they do not hit their baseline income figures by means of a pro rata contribution from the higher retained growth, so retained levy, of fellow Pool members.

4.8 Notifications of new pilots must be received by the Government by 23<sup>rd</sup> October 2020. The section 151 officer for each council is required to sign off proposals before they are submitted.

## **5. FINANCIAL IMPLICATIONS**

5.1 The arrangements for the business rates pool will continue to mitigate some but not all of the financial risk of the current business rates system. Based on information known at this point in time the pooling arrangements (if approved) remain of overall financial benefit to this Council, albeit that the added financial benefit is far more

modest than for previous forecasts. The precise impact on Council finances cannot be known as this will vary depending on a range of factors including the ongoing impact of the COVID-19 pandemic, whether business rates grow or to what extent they contract, future appeals and mandatory reliefs. Prospective Pool Members will continue to monitor the benefits of the proposed Pool for 2021-22 and will reassess our position before the final decision is agreed.

- 5.3 The Government is still planning to make changes to the business rates system but this has been further deferred given the ongoing impact of the COVID-19 pandemic on the business and property sector. Our active participation in the Worcestershire Business Rates Pool so far will inform and influence this process.
- 5.4 Based on the information available to date and despite the uncertainty around ongoing impact of the current pandemic, forecasts initial that the Council's position together with the overall position of the wider Worcestershire family, will be protected by joining the proposed revised WBRP.
- 5.5 The proposed pool is only concerned with the money which is generated through the levy which would have been paid to central Government if the Pool members were not in the pool. The opportunity to enter into a further Pooling arrangement for 2021-22 should be of financial benefit to this Council.
- 5.6 The revised Pool is designed to continue to protect member authorities from the small ups and downs that are likely to arise in Business Rate income in the future. These will have a direct impact on the amount of funding for the Council. By remaining in a pool, the Council can better protect against these smaller variations and thus provide some protection to its base funding.

## **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 By law, existing designations continue in force from year to year unless they are revoked by the MHCLG. It is the MHCLG's intention, for 2021-22, not to revoke existing designations unless requested to do so by authorities; under the legislation, it must revoke designations and dissolve existing pools if requested to do so by one, or more, of the pool members.
- 6.2 The arrangement for business rates are set out in the Local Government Finance Act 2012. Part 9 of Schedule 1 deals with pooling of authorities. Under paragraph 34, the Secretary of State may designate a pool only if each authority concerned has agreed to it. The Act makes no provision for agreement to designation for pooling to be given by full Council and, in the absence of such explicit statutory provision, it is therefore an executive responsibility.

## **7. RISK MANAGEMENT**

- 7.1 Key risks surrounding the Pool proposal include:
  - The uncertainty surrounding the ongoing economic impact of the COVID-19 impact.

- A member of the Pool not deciding to go ahead with the Pooling by the prescribed deadline;
- Due to our total lack of control or influence over decisions by the Valuation Office Agency (VOA) on Business Rates appeals, the risk of there being insufficient money in the Pool generated by the levy to fully cover any losses incurred by the members remains. Whilst withdrawal from the Pool could be considered in this instance, experience has shown that timescale and late notification from the VOA may prevent this working in practice;
- Uncertainty around the claims for mandatory business rates relief for NHS Hospital Foundation Trusts;
- Regeneration takes time to reap the business rate benefits. Together with any fragility in the local business economy, there is a risk the current positive trend compared to baseline for business rates for Wyre Forest may not continue. Subject to overall Pool performance the revised WRBRP may be unable to compensate the Council for any forgone safety net.

## **9. EQUALITY IMPACT ASSESSMENT**

- 9.1 The revised arrangements for business rates do not affect services or facilities for individual members of the public, and therefore there is no requirement to undertake an Equality Impact Assessment.

## **10. CONCLUSION**

- 10.1 A decision on whether or not to join the revised WBRP for 2021-22 needs to be made by the MHCLG deadline of the 23<sup>rd</sup> October 2020. The proposed delegation allows this decision to be progressed.
- 10.2 The governance arrangements will be considered and agreed as part of this delegation to allow WFDC to continue to work effectively with the other partners.

## **11.1 CONSULTEES**

- 11.1 Corporate Leadership Team.  
 11.2 Cabinet.  
 11.3 Worcestershire Treasurers and LG Futures

## **12. BACKGROUND PAPERS**

- 12.1 Local Government Finance Act 2012.  
 12.2 Letter from MHCLG Business Rate Operations Team - BRR – Invitation to Pool received by Email - Final Reminder 22<sup>nd</sup> October 2020