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**Report to:** LEEDS CITY REGION BUSINESS RATES POOL Joint Committee 2021/22 and 2022/23

**Date:** 17<sup>th</sup> March 2023

**Subject:** LEEDS CITY REGION BUSINESS RATES POOL FINANCIAL REPORT

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## **SUMMARY**

This report sets out:

- a) The context in which the 2022/23 Leeds City Region Business Rates Pool was set up;
- b) The current position of the Leeds City Region Pool, including the provisional 2021/22 financial outturn and the latest income projections for 2022/23;
- c) The proposed allocation of funding for 2021/22 and 2022/23;
- d) The process required to closedown the 2021/22 and 2022/23 Leeds City Region Business Rates Pools following the winding up of the current Joint Committee.

## **1. Introduction**

- 1.1. The 2022/23 Leeds City Region Business Rates Pool was designated by Government from 1<sup>st</sup> April 2022 under the 50% retention scheme. The advantage of forming a business rates pool in this situation is the retention in the region of levy payments that would otherwise have to be made to Central Government.
- 1.2. Levy payments restrict the relative gains made by tariff authorities from the 50% of business rates growth above the baseline, which are higher than those of top-up authorities. If tariff and top up authorities combine in a pool this can be done in such a way as to retain these levy payments regionally rather than pay them to Central Government.
- 1.3. The major risk of entering into a Pool arrangement is that if the retained business rates income and associated section 31 grant income of a member authority falls below 92.5% of their assessed spending requirement, or Baseline Funding Level, the payment of a safety net payment from Central Government will not be forthcoming. This payment will have to be met by the pool and if income to the pool is not sufficient, by member authorities.
- 1.4. In early October 2021, West Yorkshire authorities plus York and Harrogate councils agreed to make an application to continue to pool business rates in 2022/23. In December 2021 the Government

announced that this application had been successful and designated the Leeds City Region Business Rates Pool from 1<sup>st</sup> April 2022.

- 1.5. This report is written at a time of continued heightened uncertainty about business rates income and the associated section 31 grant income retained by local authorities. The continued impact of the cost of living crisis on the region's business rates tax base remains unclear, particularly on factors such as growth and the level of reliefs and collection such as Empty Rate Relief. The level of collection of arrears, as recovery action is reintroduced and additional reliefs brought in to support businesses during the pandemic are phased out, is an area of concern and will require continued close monitoring. It is in this context that the forecasts about the income to the Pool from regional levy payments, discussed further at **Paragraph 4 and 5** of this report, must be considered.
- 1.6. The Leeds City Region Pool exists to benefit the individual members and to further the aims of the region as a whole. During the application process the prospective Pool members agreed that income received by the Pool will be shared out so that each member authority receives at least the same amount that they would if they were treated individually under the Business Rates Retention scheme. Specifically, it has been agreed that if an authority falls into safety net this will be funded by the levies accumulated by the Pool and, if this is not sufficient, by the other member authorities. This is further explained at **Paragraph 6**.

## **2. Structure of the Leeds City Region Business Rates Pool**

2.1. Membership of the Leeds City Region Business Rates Pool is as follows:

- City of Bradford Metropolitan District Council
- The Metropolitan Borough Council of Calderdale
- Harrogate Borough Council
- Kirklees Council
- Leeds City Council
- The Council of the City of Wakefield
- City of York Council

## **3. Governance of the Leeds City Region Business Rates Pool**

- 3.1. The Pool is led by a Joint Committee comprising of all the Leaders of the member authorities making up the Pool.
- 3.2. A Memorandum of Understanding (MOU) between the member authorities of the Leeds City Region Business Rates Pool for 2022/23 and Terms of Reference for the Joint Committee for 2022/23 were approved at a previous meeting of the Joint Committee on 10<sup>th</sup> August 2022.
- 3.3. The MOU closely mirrors the structure and terms of a model MOU sent to billing authorities in September 2021, apart from the provisions detailing the distribution of the funding retained by the Pool. The approved MOU states that retained funding can be used at the direction of the Joint Committee to fund regional projects seeking to promote inclusive growth in the region. Any

residual benefit, after these payments are made, will then be returned to member authorities using the following formulation: -

- 25% in proportion to population, to recognise the most significant driver of need,
- 25% in proportion to growth above the baseline, to continue to incentivise growth in the business rates tax base in the region,
- 25% in proportion to the levy payments made to the pool, to recognise the contribution of the 3 levy-paying authorities to the income of the pool,
- 25% to the 4 top-up authorities in proportion to the top-ups they receive from Government, to recognise that without the participation of top-up authorities levy payments could not be retained within the region.

3.4. This methodology was agreed for the purposes of the application to pool in 2022/23 by the Chief Finance Officers of the seven member authorities. Alongside this were changes to provide that the decision to admit new member authorities be taken from the Joint Committee, instead requiring unanimous agreement of all member authorities, and the addition of a provision to ensure any share of a surplus could be paid to the successor authority of any member authority in the light of the Local Government Re-organisation in North Yorkshire.

3.5. The Joint Committee should note that the distribution methodology in force for 2022/23 is different to that in force in 2021/22. In the 2021/22 application to Pool to the Secretary of State the distribution of residual benefits uses the following formulation: -

- 50% in proportion to population,
- 50% in proportion to growth above the baseline.

#### **4. Provisional outturn for Leeds City Region Pool Income 2021/22**

4.1. Based on authorities' own estimates at the time of the pool application process (October 2020), the Leeds City Region Business Rates Pool was estimated to keep £4.8 million of income in the region from retained levy payments.

4.2. Since the application process, member authorities completed their NNDR1 forecasts of Business Rates income for the year 2021/22. At that time, January 2021, this led to an updated, latest estimate of slightly over £4.6 million. A monitoring exercise as at 31<sup>st</sup> August 2021 estimated an increased level of income retained of £5.1m as the economy has begun to reopen since March 2021. However latest figures available, including all three levy-paying authorities' draft outturn NNDR3 returns, show a dampening of expectations in the recovery of business rates income, and a reduction in income to the Pool to £4.3m. Calculations of income to the pool will not be finalised until NNDR3 returns are externally audited. Whilst this would usually have been complete by 30<sup>th</sup> September 2022, it should be noted that there have been significant delays in local government audits in recent years.

4.3. **Table 1** below demonstrates where the levies are paid from and how this has changed from the estimated NNDR1 position. The projected levies as at 31<sup>st</sup> March 2022 are based on the provisional NNDR3 returns detailing outturns for 2021/22.

**Table 1: Levy payments to the 2021/22 Leeds City Region BR Pool**

Authority	Levy payment NNDR1 £m	Levy payment 31-Aug-21 £m	Levy payment 31-Mar-22 provisional NNDR3 £m
Harrogate	1.145	1.441	1.613
Leeds	0.619	0.335	0.857
York	2.802	3.297	1.819
<b>Total</b>	<b>4.566</b>	<b>5.073</b>	<b>4.289</b>

## 5. Updated Estimated Leeds City Region Pool Income 2022/23

5.1. During the application process to continue the Leeds City Region Pool into 2022/23 (October 2021) the estimate of the additional funding that could be retained in the region was £5.1m. Since that time the member authorities submitted to Government their forecast of income for 2022/23 on the NNDR1 return in January 2022, at which time total income to the pool was forecast to be lower at £4.1m, reflecting members concerns about the emerging cost of living crisis. In July a reassessment of non-domestic rating income in York in July 2022 saw increasing confidence that the income from business rates was improving and income to the Pool from York rose significantly with smaller but significant increases in projected income in both Leeds and Harrogate. Latest information from member authorities indicates that income to the pool will continue to increase with the latest consolidated data leading to a projection of income to the Pool of £6.3m, as set out in **Table 2**. Data provided by member authorities show that although non-domestic rating income is reduced, the compensation for the extended Retail Relief mandated by Government and awarded by members to many businesses has increased significantly compared to July 2022. This compensation must be added to business rates income when calculating levy payments to the Pool.

**Table 2: Estimated levy payments to the 2022/23 Leeds City Region BR Pool**

Authority	Levy payment NNDR1 £m	Levy payment 31-Jul-22 £m	Levy payment 31-Jan-23 £m
Harrogate	0.919	1.105	1.471
Leeds	0.725	0.879	1.192
York	2.459	3.220	3.616
<b>Total</b>	<b>4.103</b>	<b>5.204</b>	<b>6.279</b>

## 6. Continued Risks to Pool Funding

- 6.1. The 2021/22 and 2022/23 Leeds City Region Business Rates Pools are levy pools under 50% business rates retention. Under the 50% scheme the financial advantage of forming a business rate pool is the retention of levy payments within the region that would otherwise have to be made to Central Government. As the Government's pooling prospectus makes clear, the business rates retention scheme gives authorities scope to generate additional growth through collaborative effort and to smooth the impact of volatility in rates income across a wider economic area.
- 6.2. Continued risks to the economy, particularly surrounding the ongoing cost of living crisis post-COVID, continue to pose a risk to business rates income and its associated general fund income streams. Risks to growth, Empty Rate Relief and bad debt costs remain high. For some authorities a reduction in business rates may result in a safety net payment being required from the Pool, although this is not currently projected.
- 6.3. An authority would fall into safety net if it suffered a reduction in adjusted retained rates income to a threshold below 92.5% of their baseline funding level.
- 6.4. The Government's pooling prospectus notes that the nature of the pooling arrangement is to provide a safety net at 92.5% for authorities who see significant reductions in their income from the rates retention scheme. The Memorandum of Understanding for the Pool therefore reflects that if an authority falls into safety net the loss of income should be met by the retained levies from the other authorities. If this is not enough, the net loss will be shared amongst all members of the Pool (including those in safety net).
- 6.5. If the Pool in its entirety falls into safety net, there would be a safety net payment from Government up to the Pool's 92.5% threshold. In this situation there may need to be a reallocation of funding to ensure all authorities received a level of funding up to their safety net position.
- 6.6. The final unaudited position for the 2021/22 Pool is now known, but the final audited position will not become known until all members' 2021/22 accounts are fully audited, a process which has been subject to delays in the preceding two years. For the 2022/23 Pool, monitoring will be ongoing throughout the year and the final unaudited 2022/23 Pool position will become clearer when provisional NDR3 returns are submitted in June 2023, when authorities will be able to provisionally finalise their known positions for the year.
- 6.7. Local authorities will need to continue to monitor the ongoing impact of COVID-19 and the cost of living crisis on collection funds and lobby Government for ongoing support to deal with the ongoing financial impact should it prove unmanageable. Should any such support be forthcoming this may mitigate the extent to which the Pool is impacted.
- 6.8. To summarise the current position, the main risk of a 50% retention pool is that if a member authority becomes entitled to a safety net payment, because its retained income has fallen dramatically, then that safety net payment will no longer be received from the Government but will have to be met by other members of the pool. This would represent a loss of income to the region.

## 7. Proposed Allocation of Leeds City Region Business Rates Pool Funds

- 7.1. Notwithstanding the risks noted in section 6 above, the Pool's current forecasts for 2022/23 indicate that whilst some authorities are close to the safety net threshold, no authority is currently forecast to breach the threshold.
- 7.2. The latest information about retained 2022/23 business rates income have been received from member authorities. **Table 3** shows how close each authority is to the safety net threshold.

**Table 3: Reduction in adjusted BR income possible in 2022/23 before crossing safety net threshold**

Authority	Retained Rates income £	Safety Net threshold £	Reduction in BR income possible before threshold
Bradford	151,484,180	128,813,280	27.6%
Calderdale	43,254,419	39,061,386	14.1%
Harrogate	6,684,126	3,461,860	11.3%
Kirklees	85,757,574	76,477,763	16.3%
Leeds	172,782,052	146,551,835	14.0%
Wakefield	85,964,852	66,724,701	27.0%
York	34,625,512	24,563,396	17.9%

- 7.3. In August 2022 the Joint Committee agreed to the payment of £144,000 to Screen Yorkshire and in October 2021 the Joint Committee agreed to the payment of the £30,000 administration fee to the lead authority from the 2021/22 surplus. Given these payments the provisional outturn for the 2021/22 distribution of funding between member authorities of the 2021/22 surplus is therefore as set out in **Table 4**. However, these figures will not be finalised until the outturn 2021/22 NNDR3 returns are externally audited and submitted to Government. Although this is usually by 30 September 2022, the Joint Committee will be aware that there have been delays to the local government audit process for the preceding two financial years. The distribution of this funding follows the methodology of the 2021/22 Leeds City Region Business Rates Pool, that is, 50% in proportion to growth and 50% in proportion to population.
- 7.4. The re-distribution of the forecast surplus for 2022/23 is as set out in **Table 5**. This currently assumes that the Joint Committee will not make any decisions to fund regional projects from the surplus and will continue to approve the payment of the £30,000 administration fee to the lead authority of the Business Rates Pool and follows the methodology in the revised draft Memorandum of Understanding for 2022/23 as set out in **paragraph 3**.

**Table 4: Provisional outturn for re-distribution of Leeds City Region Business Rates Pool surplus 2021/22**

Authority	Redistributed levy (NNDR3 return) £m
Bradford	0.600
Calderdale	0.314
Harrogate	0.283
Kirklees	0.386
Leeds	1.125
Wakefield	1.053
York	0.354
Subtotal	4.115
Screen Yorkshire grant	0.144
Pool administration fee	0.030
<b>Total</b>	<b>4.289</b>

**Table 5: Forecast re-distribution of Leeds City Region Business Rates Pool surplus 2022/23**

Authority	Redistributed levy (NNDR1) £m	Redistributed levy (31-Jul-22) £m	Redistributed levy (31-Jan-23) £m
Bradford	0.754	1.268	1.515
Calderdale	0.259	0.274	0.316
Harrogate	0.274	0.407	0.542
Kirklees	0.458	0.602	0.692
Leeds	1.129	0.869	1.167
Wakefield	1.147	0.677	0.773
York	0.545	1.076	1.243
Subtotal		5.174	6.249
Pool administration fee		0.030	0.030
<b>Total</b>	<b>4.567</b>	<b>5.204</b>	<b>6.279</b>

## 8. The closure of the 2021/22 and 2022/23 Leeds City Region Business Rates Pools

- 8.1. The membership of the Leeds City Region Business Rates Pool will change on 1<sup>st</sup> April 2023 with Harrogate Borough Council withdrawing from the Business Rates Pool following a Local Government Re-organisation in North Yorkshire. As such the current business rates pool, and current Joint Committee, will come to an end on 31<sup>st</sup> March 2023 and a new 2023/24 Leeds City Region Business Rates Pool will be formed on 1<sup>st</sup> April 2023 composed of the six remaining members, as designated by the Secretary of State in the Provisional Local Government Finance Settlement 2023/24.
- 8.2. Alongside the new 2023/24 business rates pool a new joint committee will be formed, but this new joint committee will have no authority to dispose of the funds generated by the 2021/22 and 2022/23 business rates pools or require payment from member authorities for any deficit generated by those pools. It is therefore proposed that the current Joint Committee give delegated authority to the Chief Officer - Financial Services at Leeds City Council, the lead authority, to ascertain any surplus or deficit generated by the 2021/22 and 2022/23 business rates pools and to distribute, or require payment, from the member authorities of those pools, or their successor organisations, in order to distribute any residual benefit or meet any outstanding liabilities in accordance with the respective Memoranda of Understanding and with the agreement of the section 151 officers of those authorities.

## 9. Recommendations

9.1. Members are recommended:

- a) To note the context, structure and governance of the 2022/23 Leeds City Region Business Rates Pool as described in **Paragraphs 1, 2 and 3**;
- b) To note the provisional outturn Pool income for 2021/22 and projected Pool income for 2022/23 as shown in **Paragraphs 4 and 5**;
- c) To note the risks to retained income and of breaching safety net at **Paragraph 6**;
- d) To note the provisional outturn re-distribution of residual benefits from the 2021/22 Pool and the projected re-distribution of 2022/23 Pool income to member authorities at **Paragraph 7**;
- e) To approve the payment of the £30,000 administration costs of the lead authority, Leeds City Council for 2022/23 as detailed in the Memorandum of Understanding and illustrated at **Table 5**;
- f) To approve that the Chief Officer, Financial Services at the lead authority, Leeds City Council, be given the delegated authority to finalise the final income and expenditure account of the 2021/22 and 2022/23 Leeds City Region Business Rates Pools and distribute any surplus or deficit between member authorities or their successor authorities in accordance with the respective Memoranda of Understanding and with the agreement of the section 151 officers of the member authorities or their successor organisations as explained in **Paragraph 8**.