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**Report to:** 2023/24 and 2024/25 LEEDS CITY REGION BUSINESS RATES POOL JOINT COMMITTEE

**Date:** 11<sup>th</sup> March 2024

**Subject:** 2023/24 and 2024/25 LEEDS CITY REGION BUSINESS RATES POOL FINANCIAL REPORT

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## **SUMMARY**

This report sets out:

- a) The context in which the 2023/24 Leeds City Region Business Rates Pool has been set up;
- b) The current position of the 2023/24 Leeds City Region Business Rates Pool, including the latest income projections for 2023/24;
- c) The proposed allocation of funding for 2023/24;
- d) The forecast levy payments and distribution of estimated Pool income for 2024/25;
- e) The implications of the recent government consultation on improving the timeliness of local audit on the financial administration of the Leeds City Region Business Rates Pool.

## **1. Introduction**

- 1.1. The 2023/24 Leeds City Region Business Rates Pool was designated by government from 1<sup>st</sup> April 2023 under the 50% Business Rates 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 paid to central government.
- 1.2. Levy payments restrict the relative gains made by tariff authorities from the 50% of business rates growth above the Business Rates 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 2022, the five West Yorkshire authorities plus the City of York Council agreed to make an application to pool business rates in 2023/24. These member authorities have been in successive pools since 1<sup>st</sup> April 2013, but at the end of 2022/23 Harrogate Borough Council, a member of the 2022/23 Leeds City Region Business Rates Pool and a contributing tariff authority, ceased to exist following a Local Government Re-organisation in North Yorkshire. A new business rates pool therefore had to be formed in 2023/24 with a changed membership. In December 2022 the government announced that the application for the remaining members to form a pool had been successful and designated the 2023/24 Leeds City Region Business Rates Pool from 1<sup>st</sup> April 2023. The membership of the 2023/24 Pool did not change for 2024/25 and the member authorities applied to the Secretary of State in September 2023 to continue the Pool into 2024/25. The Secretary of State agreed to this in December 2023.
- 1.5. This report is written at a time of continued 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 businesses, and therefore the tax base, remains unclear, particularly on factors such as growth, collection rates and the level of reliefs such as Empty Rate Relief. The level of collection of arrears as recovery action was reintroduced after the pandemic, and the reducing level of additional funded reliefs brought in to support businesses during the pandemic, also continue to be areas of concern. It is in this context that the forecasts about the income to the Pool from regional levy payments, discussed further at **Paragraph 4** 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 as they would have if they were being treated individually under the Business Rates Retention Scheme (BRRS). Specifically, 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 5**.

## **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
- 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, or their nominated representatives.

- 3.2. A Memorandum of Understanding (MOU) between the member authorities of the Leeds City Region Business Rates Pool for 2023/24 and Terms of Reference for the Joint Committee for 2023/24 were approved at a previous meeting of the Joint Committee on 28<sup>th</sup> July 2023.
- 3.3. The MOU states that pooled levy payments must first meet any safety net payments due to individual member authorities. Any surplus pooled levy payments are then known as the Net Retained Levy and can be used at the direction of the Joint Committee in the following ways: -
- A. The running costs of the pool, if any, will initially be paid by the lead authority and will be reimbursed to them from the Net Retained Levy through the payment of an administration fee.
- B. If after A the Net Retained Levy is greater than £0 (i.e. the pool has made an overall gain), then the first £200k of Net Retained Levy will be paid to the City of York Council recognising that this member is the largest contributor of funding to the Pool. If there is any further Net Retained Levy, then the Joint Committee may make decisions as to how it can be used to further regional economic growth.
- C. If after A and B, the remaining Net Retained Levy is greater than £0, that is the Net Retained Levy is more than that required for the administration fee, the £200,000 payment to York, and for the purposes of the decisions of the Joint Committee, then it becomes a Residual Benefit of the Pool and it will be returned to all member authorities using the following apportionments:-
- 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 2 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 by the Section 151 Officers of the six member authorities for the purposes of making an application to the Secretary of State to pool in 2023/24.

#### **4. Projected Leeds City Region Pool Income 2023/24**

- 4.1. During the application process to form the 2023/24 Leeds City Region Pool (October 2022) the estimate of the additional funding that could be retained in the region was £3.2m, based on 2022/23 levels of income. Since that time the member authorities submitted to government their forecast of income for 2023/24 on the NNDR1 return in January 2023 which showed an improved projected outcome of £3.7m. Member authorities provided the lead authority with updated forecasts in August 2023, at which time total income to the pool was forecast to be slightly reduced, at £3.4m. Latest information from member authorities indicates that forecast income to

the pool remains in line with the August forecast, showing projected income to the Pool of £3.4m, as set out in **Table 1**.

**Table 1: Projected levy payments to the 2023/24 Leeds City Region BR Pool**

Authority	Levy payment NDR1 £m	Levy payment 31-Aug-23 £m	Levy payment 31-Jan-24 £m
Leeds	1.162	1.013	1.048
York	2.582	2.373	2.358
<b>Total</b>	<b>3.744</b>	<b>3.386</b>	<b>3.406</b>

## 5. Continued Risks to Pool Funding

- 5.1. The 2023/24 Leeds City Region Business Rates Pools is a levy pool 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 per the government's pooling prospectus, the Business Rates Retention Scheme gives authorities scope to generate additional growth through collaborative effort and to smooth the impact of volatility in business rates income across a wider economic area.
- 5.2. Continued risks to the economy, particularly surrounding the ongoing impact of the cost of living crisis, 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 elevated. For some Authorities a reduction in business rates may result in a safety net payment being required from the Pool, though this is not currently projected.
- 5.3. 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. Without a Pool, this loss of income would be met by government.
- 5.4. The government's pooling prospectus notes that the nature of the pooling arrangement is that the pool will provide this safety net for member 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 there is not enough in retained levies, the net loss will be shared amongst all members of the Pool (including those in safety net) in proportion to their Baseline Funding Levels.
- 5.5. If the Pool in its entirety falls into safety net there would be a safety net payment from government up to the Pool's combined 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.
- 5.6. 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 will represent a loss of income to the region.

5.7. The latest information about retained 2023/24 business rates income has been received from member authorities. **Table 2** shows how close each authority is to the safety net threshold using current forecasts.

**Table 2: Reduction in adjusted BR income possible in 2023/24 before crossing safety net threshold.**

Authority	Retained Rates income £	Safety Net threshold £	Reduction in BR income possible before threshold
Bradford	149,973,437	133,633,735	10.9%
Calderdale	46,104,317	40,523,143	12.1%
Kirklees	90,758,417	79,339,716	12.6%
Leeds	183,777,879	152,036,104	17.3%
Wakefield	91,199,379	69,221,675	24.1%
York	33,702,369	25,482,609	24.4%

5.8. Notwithstanding the risks noted in **paragraph 5** above, the Pool's current forecasts for 2023/24 indicate that whilst some authorities are significantly closer to the safety net threshold than others, no authority is currently forecast to breach the threshold with any resultant loss of income from the government to the region.

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

6.1. At this time, there have been no further requests to fund regional projects by the Leeds City Region Business Rates Pool and therefore, following the Memorandum of Understanding rules as laid out **paragraph 3.3**, it is assumed that all the projected retained levy payments will be used to meet the Pool administration fee to Leeds City Council of £50,000 (approved at the last meeting of the Joint Committee on 28<sup>th</sup> July 2023), pay the City of York Council its £200,000 top-slice and then redistribute the remainder using the formula.

6.2. Therefore, as at 31<sup>st</sup> January 2024, the projected income to the Pool will be redistributed back to member authorities as set out in **Table 3** below.

**Table 3: Forecast re-distribution of Leeds City Region Business Rates Pool surplus 2023/24**

Authority	Redistributed levy (NNDR1) £m	Redistributed levy (31-Aug-23) £m	Redistributed levy (31-Jan- 24) £m
Bradford	0.747	0.696	0.687
Calderdale	0.213	0.193	0.180
Kirklees	0.430	0.389	0.388
Leeds	0.854	0.764	0.769
Wakefield	0.482	0.390	0.431
York	0.767	0.704	0.700
<b>Subtotal</b>	<b>3.494</b>	<b>3.136</b>	<b>3.156</b>
Pool administration fee	0.050	0.050	0.050
York Topslice	0.200	0.200	0.200
<b>Total</b>	<b>3.744</b>	<b>3.386</b>	<b>3.406</b>

**7. The forecast of income to the Leeds City Region Business Rates Pool in 2024/25 and the possible distribution of the income back to member authorities**

- 7.1. In January 2024 the member authorities produced forecasts of retained Business Rates income for the purposes of their 2024/25 Budgets and submitted these forecasts to government by way of their NNDR1 return. Using the figures from these returns it is possible to make estimates of the forecast income to the Leeds City Region Business Rates Pool in 2024/25.
- 7.2. Although the Joint Committee will have the option to make grant payments to regional projects that benefit the regional economy, if it is assumed that all income to the Pool will be distributed back to member authorities in 2024/25 it is also possible to calculate the forecast distribution of funding back to member authorities.
- 7.3. The current forecasts of gross income to the Pool and its redistribution back to member authorities are set out in **Table 4**. The redistributed amount includes the £50,000 Administration fee to Leeds and the £200,000 topslice to York from any 2024/25 surplus as agreed in the Memorandum of Understanding submitted to government.

**Table 4: Forecast Levy Payments and Distribution of estimated Pool Income 2024/25**

<b>Authority</b>	<b>Levy payments to Pool £m</b>	<b>Redistributed levy payments £m</b>
Bradford	0	0.740
Calderdale	0	0.199
Kirklees	0	0.415
Leeds	1.390	0.949
Wakefield	0	0.475
York	2.259	0.873
<b>TOTAL</b>	<b>3.650</b>	<b>3.650</b>

## **8. The implications of the recent government consultation on improving the timeliness of local audit on the administration of the 2023/24 Leeds City Region Business Rates Pool and future pools**

- 8.1. Since at least the financial year 2019/20 there have been increasing delays to the local audit process in England for a variety of complex and connected reasons. The government published a consultation, 'Addressing the local audit backlog in England: Consultation', on 8<sup>th</sup> February 2024. The proposals within that consultation raise an issue for the financial administration of the current Leeds City Region Business Rates Pool.
- 8.2. Since the creation of a business rates pool covering the Leeds City Region area in 2013/14, it has been agreed by successive Joint Committees that final closure and payment of surpluses from the Pool should not be completed until all member authorities have certified their NNDR3 returns, that is, received a clean audit opinion on their outturn collection fund accounts.
- 8.3. The proposals in the February 2024 consultation on audit delays have raised the prospect that there will be 'backstop' dates by which audits must be complete. The first of these is proposed to be 30<sup>th</sup> September 2024 for all audited accounts up to, and including, 2022/23. If auditors have not received reasonable assurance that financial statements give a true and fair view of an entity's financial position by this date because the auditor has not had time to carry out their work, they could issue a disclaimer or modified opinion. This will be phase 1 of the process of clearing the backlog.
- 8.4. Phase 2 of the process will see a number of backstop dates being imposed over the following five years to gradually allow the system to recover over that extended time period. The final backstop date would be 30<sup>th</sup> November 2028 for the audit of financial statements relating to the financial year 2027/28.
- 8.5. If Leeds City Region business rates pool's current practice of not allowing surpluses to be distributed until a final clean audit opinion is issued continues, this could result in some funding relating to particular financial years never being distributed. However, this practice is not required by government or written into the governance documents of the Pool.

- 8.6. The Joint Committee has the authority within the Memorandum of Understanding of the Pool to agree measures to ensure the good governance of the Pool. Members are therefore being asked to give the Chief Officer - Financial Services at Leeds City Council, in consultation with the section 151 officers of the other member authorities, the delegated authority to distribute the 2023/24 surplus once she has received reasonable assurance from each section 151 officer that outturn NNDR3 returns are a true and fair view of members' retained business rates income.
- 8.7. Accompanying this authority, members are also asked to allow the Chief Officer - Financial Services at Leeds City Council to recoup any excessive distribution of funding, or distribute any further funds, that become apparent should any changes occur subsequent to any initial distribution.
- 8.8. The 2022/23 Pool had a different membership and therefore a different governing Joint Committee and is now dissolved. Should any member authority not meet the backstop date for that financial year, the distribution of the surplus for the 2021/22 and 2022/23 business rates pools will require all member authorities, or their successor authorities in the case of Harrogate Borough Council, to agree, according to their own governance procedures, to change the practice of not paying surpluses until after a clean audit opinion. The current Joint Committee is not empowered to make retrospective resolutions affecting the outstanding 2021/22 and 2022/23 business rates pool. The remaining outstanding audits are expected to be completed for the 2021/22 financial year and final distributions of the surplus from 2020/21 is to follow shortly. However, it appears likely that some member authorities will have no audit or only a partial audit for 2022/23.

## 9. Recommendations

9.1. Members are recommended:

- a) To note the context and structure of the 2023/24 Leeds City Region Business Rates Pool as described in **Paragraphs 1 and 2**;
- b) To note the risks to retained income and of breaching safety net for 2023/24 as described at **Paragraph 5**;
- c) To note the projected re-distribution of Pool income to member authorities for 2023/24 at **Paragraph 6**;
- d) To note the forecast levy income, and re-distribution of Pool income to member authorities, for 2024/25 at **Paragraph 7**;
- e) To resolve that the Chief Officer, Financial Services, of Leeds City Council, in consultation with the other section 151 officers of member authorities, be given the delegated authority to distribute the surpluses of the 2023/24 Leeds City Region business rates pool once she has reasonable assurance from all the section 151 officers that the outturn NNDR3 returns for their authority submitted to the Department of Levelling Up, Housing and Communities, are a true and fair representation of members' business rates income and associated section 31 grant income, regardless of whether those returns can be certified upon completion of a clean audit



and on the understanding that any funds will be recouped or distributed should any subsequent changes occur as described at **Paragraph 8**.