

Annex A

Somerset Councils Business Rates Pool Governance Agreement

1. Pool Membership

- Somerset County Council
- Sedgemoor District Council
- Mendip District Council
- South Somerset DC
- Taunton Deane BC
- West Somerset Council

2. Introduction

This pooling proposal has been agreed by all pool members and signed by their Section 151 Officers.

The proposal sets out various key principles and addresses the key governance areas to ensure that a robust framework is in place for the effective management of the pool. Governance arrangements will stay in place until the pool is fully dissolved.

Each time a new member joins or an existing member leaves the Pool the governance arrangements will need to be reviewed, renewed and agreed with the Department for Communities and Local Government (DCLG) and its successors.

3. Status of this Agreement

The Pool Members agree that this shall be a binding contractual relationship and mutual commitments between them created by this Agreement shall from the date hereof be construed accordingly.

4. Key principles of the pool

- The aim will be to ensure that no participant receives less funding than if they had not pooled.
- Any dividend remaining or any shortfall will be calculated in accordance with the detailed clauses below.
- Outside of this agreement, individual authorities will retain their decision making powers and co-operate in good faith for the duration of this agreement to endeavour to procure the successful implementation of the Pool objectives.
- The Lead Authority is not left with any unforeseen costs or liabilities. Any such costs or liabilities will fall to individual authorities as set out in this agreement.

5. Definition of Pooled Funds

Pooled funds will include monies involved in the Local Government Business Rates Retention Scheme (BRRS). Subject to the requirements of the 2012

Local Government Finance Act and its related regulations, which must take precedence, authorities involved will pool all the business rates collected by each authority **except** the rates yield or growth from any local Enterprise Zone, New Development Deal Area or from renewable energy schemes or similar exemptions, as set out in current or future legislation, where an individual authority is allowed to benefit directly without deductions for levies or others' shares.

6. Governance Structure

The key element in the governance structure will be the s.151 officers of the authorities that are in the pool. They will form a Governance Board and will be responsible for guiding and managing the operational day-to-day running of the pool. The officers will seek to find unanimous agreement on all issues involving the pool.

The Governance Board will meet quarterly, including an annual review meeting of the Pool arrangements and its performance to determine whether the Pool should be dissolved. For example, one or more members may wish to withdraw and the remaining members may wish to resubmit an amended pooling proposal.

If unanimity cannot be reached after a number of options have been considered, the circumstances and difficulties arising will be reported to and guidance sought from the Chief Executives of the councils that are in the Pool for a formal, binding decision to be agreed.

7. Duration of the pooling agreement

Membership of the Pool is voluntary and members will be able to leave the Pool in accordance with this agreement and the DCLG timescales that will be published from time to time (see clause 13).

8. Lead Authority

The Lead Authority for accounting purposes will be Mendip District Council

Responsibilities for the Lead Authority and individual Pool members are outlined in **Appendix 1**.

9. Management Charge

Pool set-up and administration costs incurred by the Lead Authority have been agreed at £15,000 per annum in the first year and thereafter will be uplifted in line with any Local Government pay award.

10. Pool Dividend

The Pool Dividend is defined as the amount remaining in the Pool after:

- The Management Charge has been deducted
- Any Tariff payment to Government

- Any Top Up payment from Government
- Any Levy payment to Government
- Any Safety Net payment from Government
- Payment to each participant of the amount they would have received should the Pool not have existed, including Tariff, Top Up, Safety Net and Levy payments and relevant s.31 grants
- Any interest payments or penalties to or from the Pool

The Pool will be based upon a “No Worse Off” or shared proceeds of net levy saved position. No Worse Off is determined to be that a member will be no worse off by being a member of the Pool than they would have been if they had not been a member of the Pool. Each member will retain the income they would have received under the BRRS if they were not a member of the Pool, as determined by Local Government Finance Settlement.

50% of rates collected are payable to Central Government (Central Share) and the remaining balance of the business rates will then be paid into the Pool on a net cash-flow basis. The Pool will effectively be responsible for the distribution of Tariffs/Top Ups.

11. Allocating any Pool Dividend

The remaining balance of the Pool consists of the Levy payments that would have been paid to Government less the deduction of the Management Charge and any payments made under the No Worse Off principle.

Any Pool Dividend will be distributed on the following basis:

- 20% to Somerset County Council;
- 56% to the remaining Councils in proportion to their Levy saved;
- 24% to the remaining Councils in proportion to their funding targets.

The Pool will not retain a contingency reserve. Instead participants will maintain their own provision against future Pool Shortfalls.

12. Pool Shortfall

If a Pool Member’s business rate income drops by more than the Government determined Safety Net trigger, then, under the No Worse Off principle, that member will be entitled to receive the equivalent of a Safety Net payment from the Pool calculated according to the methodology set out in clause 10. The Management Charge and Safety Net payments will be made as a first call on the Pool, before the Pool Dividend is allocated.

However, 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:

Stage 1:

- 20% from Somerset County Council;

- 49% from any of the remaining councils that failed to achieve their rates collection target. This shall be in proportion to the cash amount that it is, or they are, below the target (based on their 40% local share);
- 21% from the remaining councils in proportion to their funding targets.

No council shall receive less than its Safety Net level outside the Pool from this step.

Stage 2

- If any councils do fall below their Safety Net level outside the Pool in stage 1 then a further deduction will be made, to fund the amount(s) that those councils have fallen below, from all councils with income in excess of their Safety Net amount outside of the Pool, pro rata to the amounts that they are above the Safety Net.

Stage 3

- If any councils fall below their Safety Net level outside the Pool at stage 2 then a further deduction shall be made, to fund the amount(s) that those councils have fallen below, from all Pool Members, pro rata to each authority's funding target. This is the only step at which an authority may receive less than its Safety Net level outside the Pool.

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

13. Dissolution

The pooling arrangement will remain in place until any single authority or authorities say that they wish to leave the Pool. Pool members should consider the impact on the remaining members when making this decision.

Pool membership will be 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.

Authorities will be required to notify Pool members of their decision to leave the Pool in accordance with the notice period outlined below.

DCLG will be notified of any decision to dissolve the Pool in accordance with their published process and timetable.

Any subsequent decision to re-form a Pool, for example, if one member wishes to leave and the other authorities wish to continue in a new pool, will be made in a timely manner to ensure that a formal pooling proposal is submitted to the DCLG in line with their process and timetable.

14. Notice Period to Dissolve the Pool

Authorities will be required to advise the Pool of their intention to leave and consequently dissolve the Pool giving a **minimum of one month's notice** in advance of the DCLG deadline. This will allow remaining Pool members to consider whether they wish to submit a new pooling application.

Once the Pool has been finally designated by DCLG, the period of membership will be for a minimum of the forthcoming financial year. Should a member withdraw from the Pool during the settlement consultation period, the Pool will be dissolved in accordance with DCLG rules.

15. Distribution of Pool Assets / Liabilities on Dissolution

Pool members will be jointly and severally liable for the assets and liabilities of the Pool. However this should not override any of the detail included in this agreement.

16. Requests to join the Pool

If a new authority wishes to join the Pool it will be required to provide **three months' notice** prior to the DCLG deadline. This will allow time for existing Pool members to carry out due diligence and consider the relative merits of enlarged membership. Where a new member is admitted, the existing Pool is effectively dissolved and a new Pool formed.

17. Payment schedules and cash-flow

Payment schedules will need to be agreed and payments made on time so that the Pool can meet the payments required by Central Government and to share business rates collected. Payments into the Pool will include various payments and these will all need payment schedules as announced by DCLG or as agreed locally.

Payments to the Lead Authority will be made by direct credit on the same day as the payment date to Central Government (the 'scheduled day').

The Pool shall charge interest at a rate of four percentage points above the prevailing Bank of England Base Rate on all payments from participants that are received after the scheduled day.

Safety Net payments are to be made in-year to provide some immediate protection to the authority involved. The Pool will attempt to replicate the timing and amount of any Safety Net payment that would have been due to its members if there was no Pool.

Levies are not finalised until after the year has ended. Thus any Pool Dividend or Shortfall cannot be finalised until after the year has ended. Forecasts of various elements, such as the likely Levy payments and Pool Dividend, will be needed so that authorities can make their decisions about whether to remain in the Pool.

Costs (or benefits) which may arise from the cash-flow into and out of the pooling fund will be offset against (or added to) the Pool Dividend.

Information, in the form of a monthly spreadsheet from the source business rates systems of the billing authority members of the Pool, will be provided to the Lead Authority who will provide at least quarterly monitoring reports to all Pool members of the resulting position.

18. Accounting adjustments (Bad Debts and Appeals provision)

The Forecast and Actual Retained Amounts are the net amounts receivable by the authority from ratepayers after taking account of transitional adjustments, empty property, mandatory and discretionary reliefs and adjustments for provisions for bad and doubtful debts and for losses on appeals.

The provision for losses on appeal will be calculated by individual authorities using Valuation Office data and statistical information on a consistent basis to be agreed by designated officers from all billing authorities.

The provision for bad and doubtful debts will be calculated by each billing authority in accordance with proper practices and will be subject to external audit. If the auditor does not certify the provision on the grounds that the authority has not acted diligently, any such amounts will be funded in full by the respective authority and an adjustment will be made to the Pool Dividend or Shortfall calculations to reflect this.

19. Treasury

The treasury function shall be provided by the Lead Authority. The Treasury Management Strategy of the Lead Authority (which will be at a minimum in accordance with the CIPFA Code of Practice) shall be followed in the operation of the Pool and the management of surplus balances. The funds shall be held in separately named account(s) from the remainder of the Lead Authority's business. All interest receivable is credited to the Pool at the actual rate achieved by the Treasury Management Team of the Lead Authority on an annual basis.

The Lead Authority will not be solely liable for any loss arising from invested sums provided it has operated within its Treasury Management policies. Any such loss will be borne by the Pool Dividend first, then in line with the Board's agreed policy for Pool Shortfall across the individual authorities.

APPENDIX 1

Roles and Responsibilities

The **Lead Authority** will be responsible for the following:

- All finances in relation to the Pool including payments to and from Central Government, the other members of the Pool and Preceptors.
- Calculating the funding position if all councils had not been part of the pooling arrangement and any Pool Dividend or Shortfall.
- Agreeing the various schedules of payment with other Pool members.
- All communications with Central Government, its agencies or other relevant third parties and completing all formal Pool returns to Central Government and DCLG on behalf of the Board including year-end reconciliations.
- All information and external reporting requirements for the Pool, details of which will be shared with all members of the Pool.
- The collation and submission of information required for planning and monitoring purposes by the governance structure, the DCLG or any other party.
- All audit requirements in relation to the Pool.
- Year-end positions for the Statements of Accounts for each member authority.
- The administration of the dissolution of the Pool.

To assist the Lead Authority in fulfilling its responsibilities **Pool members** (including the Lead Authority as appropriate) will be responsible for:

- The collection of relevant business rates to transfer to the Pool run by the Lead Authority.
- The implementation of their own Collection Funds.
- The submission of NNDR forms to DCLG.
- Providing accurate and timely information on the end of year financial performance of the business rates Collection Fund to enable the Lead Authority to calculate the end of year accounting entries needed.
- The provision of such information as the Board agree is reasonable and necessary to monitor and forecast the Pool's resources within the timescales agreed.
- Informing the Lead Authority, as soon as is practicable, of any intelligence that may impact on the resources of the Pool either in the current year or in future years.

APPENDIX 2

Glossary of Terms

“**Agreement**” means this Agreement comprising the terms and conditions together with its Appendices.

“**The Board**” means the Business Rates Pool Board whose functions are more particularly set out in section 6.

“**BRRS**” means the Business Rates Retention Scheme introduced by the Department for Communities and Local Government in April 2013.

“**Lead Authority**” means the authority taking on the responsibilities in Appendix 1.

“**Levy**” means a payment due to central government related to BRRS income above Baseline Funding levels, calculated using a nationally set formula.

“**Management Charge**” means the charge payable from the Pool to the Lead Authority in respect of the costs incurred by the Lead Authority in the performance of its obligations as Lead Authority, as more particularly described at section 8 and Appendix 1.

“**Pool**” means the Business Rates Pool containing the business rates collected from the Pool Members. A voluntary arrangement amongst a group of local authorities to pool the business rates generated locally in accordance with the BRRS pooling prospectus published by DCLG in July 2014.

“**Pool Dividend**” means the amount of Levy retained locally. This is calculated as the sum of levies to be paid by individual Pool members if the Pool did not exist, less any Safety Net funding that would have been due to individual Pool members if the Pool did not exist, less the administrative costs of the Pool.

“**Pool Shortfall**” means the Pool BRRS income is less than the sum of what Pool Members’ BRRS income would have been in the absence of a Pool because the payment of compensation under the no worse off principle exceeds the Levy gains made by other Pool Members.

“**Pool Members**” means Mendip District Council, Sedgemoor District Council, South Somerset District Council, Taunton Deane Borough Council, West Somerset Council and Somerset County Council.

“**Safety Net**” means a payment received by an authority from Central Government under the BRRS if BRRS income falls by more than a specified percentage below the Baseline Funding Level. It is calculated using a national formula.