

## **Business Rates Retention Scheme – Pooling Options 2014/15**

**EXECUTIVE MEMBER:** Cllr G Troughton  
**LEAD OFFICER:** Darienne Law, Head of Corporate Resources  
**REPORT AUTHOR:** Angela George, Finance Manager

### **WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS**

Under the Business Rates Retention Scheme (BRRS) introduced from 1<sup>st</sup> April 2013, there is an opportunity for 2 or more authorities to voluntarily 'pool' their business rates. The advantage of pooling is that more of the growth in business rates income is retained locally and therefore benefits members of the Pool. However there is also a risk that the income from Business Rates will fall in the area and this would increase the financial risk to the Pool members.

### **WHY HAS THIS REPORT COME TO THE EXECUTIVE?**

**(E.g. Key Decision, Policy recommendation for Full Council, at request of Council, etc)**

The Cumbrian authorities have been working together to assess the options for a potential pool arrangement in Cumbria. Applications to join a Pool have to be made by 31<sup>st</sup> October 2013. Currently there are **no** proposals for Copeland Borough Council to join the Pool for the reasons set out in the report. However discussions are continuing with Government and members are informed of the options should there be a future opportunity to join the Pool that Copeland Borough Council may wish to take advantage of.

### **RECOMMENDATION:**

The Executive are asked to:

- (i) Note the contents of this report and that there are currently no recommendations being made for Copeland Borough Council to join the Cumbrian Pool.
- (ii) Delegate any decision to join the Pool at a later date if it becomes advantageous to do so to the Chief Executive and the S151 Officer in consultation with the Finance Portfolio Holder.

## 1. INTRODUCTION AND BACKGROUND TO THE BRRS

- 1.1 All non-domestic property is subject to Business Rates . The amount payable is determined by multiplying the rateable value (assessed and set by the Valuation Office) by the nationally set rate in the pound (for 2013-14 this is 47.1p). All Billing Authorities (e.g. Copeland Borough Council) are required to collect the sums due. There is no local discretion to Copeland Borough Council on the amount of Business Rates that a business must pay other than some specific reliefs available and any local schemes introduced e.g. discretionary rate relief, which must be funded locally.
- 1.2 Until 31<sup>st</sup> March 2013 all Business Rates were collected by the local Billing Authority (e.g. Copeland Borough Council) and paid over in its entirety to Central Government. The Government then allocated the nationally collected Business Rates to each Council as part of the annual Grant Settlement. This grant was fixed and was not in any way dependent on the amount of Business Rates collected.
- 1.3 From 1<sup>st</sup> April 2013 a new Business Rates Retention Scheme (BRRS) was introduced. The details of the new scheme were set out in the Budget Proposals Report to full Council on 21<sup>st</sup> February 2013. In summary, from 1<sup>st</sup> April 2013, all Councils were allocated a baseline level of funding as part of the formula grant that they can keep from the income they collect from Business Rates.
- 1.4 For Copeland Borough Council the key figures for 2013/14 are as follows:

	£m
Government Estimate of Copeland Borough Council Baseline 2013/14	£15.891m
Tariff to be paid to Government	<u>£13.688m</u>
CBC Spending Baseline	<u>£ 2.203m</u>
CBC Estimated Net Yield from Business Rates 2013/14 (NNDR1)	£33.765m
Allocated to:	
Central Government (50%)	£16.882m
Copeland Borough Council (40%)	£13.506m
Cumbria County Council (10%)	<u>£ 3.377m</u>
	<u>£33.765m</u>

CBC estimated income from BR	£13.506m
Less Tariff to be paid to Government	<u>£13.688m</u>
(Net Loss)	£ (0.182)m
Safety Net (92.5% of £2.203m sending baseline)	<u>£ (2.038)m</u>
Total Safety Net Payment (on Account) 2013/14	<u>£ (2.220)m</u>

- 1.5 Members will note that the Government's estimation of the income Copeland Borough Council will receive from Business Rates (£15.891m) and the Council's own estimate (£13.506m) are very different, and results in Copeland receiving a Safety Net payment (on account) for 2013/14. The Safety Net protects councils from any large reductions in Business Rates and all councils are protected to a level of 92.5% of their Baseline Spending assessment. The actual financial position will be assessed after the year end and any adjustments made at that stage. It is important to note the protection of the Safety Net for CBC when considering the Pooling options in the next section of the report. There will be no reset of the baseline until 2020.
- 1.6 The reason for the large difference in the two estimates is due to the impact of appeals, and in particular a potentially very large appeal (Sellafield) that Copeland has outstanding and which once settled will be backdated to 2010. It is currently impossible to estimate with any certainty when the appeal will be heard and at what level the appeal will be settled as this is a matter for the Valuation Office and is completely outwith CBC's control. For the purpose of the NNDR1 return submitted in October 2012 a best estimate was made of the appeals which was £8.4m (based on an average 7.5% reduction in RV) backdated to 2010 (i.e. £2.1m p.a.). Of the £8.4m, £7.5m is the estimate in respect of the Sellafield appeal. There is no further firm information relating to the potential outcome however it is possible that the 7.5% estimated reduction in respect of the Sellafield site may be insufficient and we may therefore need to make some adjustment to the original estimate. The process for doing this is not yet clear. It is also possible that the Sellafield appeal will be settled at less than the current estimate in which case, based on the current understanding of the accounting process, this would benefit CBC.
- 1.7 As well as the process for adjusting original appeals estimates, there are also a number of other accounting issues that have not yet been clarified and which impact on the decisions that might be taken. The Department for Communities and Local Government (DCLG) Business Rate Implementation Working Group is currently working with the Chartered Institute of Public Finance and Accountancy (CIPFA) and finance practitioners on these issues to fully understand the consequences of various accounting options, and it is anticipated that a full consultation on the various outstanding accounting issues will be issued shortly.
- 1.8 As a tariff authority, any growth that could be achieved in Business Rates above the Baseline level set is shared on the same basis as set out in the Table at 1.4 i.e. 50% levy payable to the Government, 10% passed to the County Council and 40% retained within the Council. Whilst there are new developments in the area such as

the Albion Square development and developments on the Sellafield site, CBC is not currently predicting any net growth due to the potential impact of the large outstanding appeal.

## **2. BRRS POOLING OPTIONS**

- 2.1 The Government's Pooling prospectus for 2014/15 was issued in July 2013. In summary pooling allows the opportunity for two or more Councils to voluntarily pool their income under the scheme.
- 2.2 The Government believe that pooling can deliver a range of benefits for local authorities including additional income to be retained in the area. The wider benefits arise from more collaborative working and pooling income from growth across a wider and economically coherent area could ensure that all authorities can benefit from economic growth across the wider area. This could mean that strategic decisions that are needed about infrastructure investment are easier to make.
- 2.2 In a two-tier area a pool only works if the County is part of it. This is because the pool needs at least one 'top-up' authority (i.e. an upper tier authority) and all Districts are 'tariff' authorities. Pooling combines the top-ups and tariffs of the individual authorities in the pool as though the pool was a single authority. As the Cumbrian pool would overall be a 'top-up' authority it means that the pool pays nothing in levy payments on growth compared to the total levy payments for individual member authorities and means that the pool retains more in business rates than the individual authorities in it.
- 2.3 However it also increases the threshold for safety nets. This means that the pool would have to manage much larger losses before it would be eligible for safety net payments. For an authority that expects to be below the safety net (such as Copeland's current estimated position) it is more beneficial to remain outside the pool.
- 2.4 Applications to join a Pool have to be made by 31<sup>st</sup> October 2013. Authorities have 28 days after receipt of the Government's Financial Settlement (expected in late December) to withdraw from the pool (in case the settlement produces any significant issues that affect the decision to be in a pool). However if one member of the pool withdraws at this stage, then the rest of the pool collapses.
- 2.5 The pooling application must be signed by the S151 Officer. The decision to be in a pool can be reviewed each year.

## **3. CUMBRIA POOLING OPTIONS**

- 3.1 The Cumbria Chief Finance officers have been reviewing the options for a Cumbria pool throughout the summer. The County Council have provided resources for the

financial modelling work that has been required and this has been crucial in terms of understanding the issues and getting to the position so far.

- 3.2 This work to date has confirmed that pooling for Cumbria, but excluding Copeland, would be financially advantageous for Cumbria for 2014/15 (estimated additional income to Cumbria authorities £2.7m). The exclusion of Copeland is due to the impact of the large outstanding rating appeal which could depress the business rate income below the safety net level for 2014/15 and which would therefore be a significant risk for the pool as the safety net level is greatly increased in a pool.
- 3.3 The difficulty in assessing whether Copeland and indeed the rest of Cumbria would be financially better off with Copeland inside or outside the pool is in trying to estimate the impact of the large outstanding appeal and whether this impact will result in Copeland staying below the safety net indefinitely. There are also a number of technical accounting issues to resolve before the overall financial impact on Copeland from the appeal and that of the pool can be properly assessed and as previously stated those accounting issues are anticipated to be consulted on in the next couple of weeks.
- 3.4 On current estimations of growth and appeals the position is BROADLY as follows:
  - ‘Best’ Case - If the appeal is not successful both Copeland and the Pool gain significantly (Copeland would gain more from being in the pool than out of it because it would not have to pay the 50% levy to Central Government).
  - ‘Mid’ Case – Assuming (following clarification of the accounting issues) any impact of backdated appeals can be accrued back to 2013/14, the inclusion of Copeland in the pool is a marginal impact on the pool and Copeland overall.
  - ‘Worst’ Case – if the appeal is settled for substantially more than the current estimate and it cannot be written back to 2013/14 then the impact on both the pool and Copeland (as it would lose its individual safety net protection) is extremely negative and everyone would lose financially.
- 3.4 To conclude therefore, if appeals are fully accrued in 2013/14 and if there is confidence that the appeal will be ‘modest’ there is a benefit to Cumbria and to Copeland from being in a pool. Otherwise there is a risk to all parties from pooling.
- 3.5 Each of the Cumbrian authorities needs to make their own decisions in relation to whether it is beneficial or not for them to join the pool. The key question for each authority is whether the probability of a financial gain from pooling outweighs the possibility of a financial loss. Currently reports are being considered by each of the authorities along the lines that Copeland will not be part of the pool unless there is some special protection against the impact of the Sellafield appeal as this substantially increases the possibility of a financial loss to the pool. It is not known whether the DCLG would agree to a Cumbria wide pool that excludes Copeland.
- 3.6 Discussions have been held and are on-going with the Department for Communities and Local Government (DCLG) who recognise the special nature of the Copeland

position in relation to the large outstanding appeal and the impact it has on both its own baseline position and the pool. If these discussions lead to any proposals for protection from the impact of any significant worsening of the effect of the pool then it may be beneficial to join the pool. The likelihood however that there will be no decision prior to the pooling deadline of 31<sup>st</sup> October unless there is an extension to this deadline granted.

3.7 The Cumbria Chief Finance Officers are continuing to work through the proposed governance and income sharing arrangements for the pool and the draft agreement has been drawn up. Although **there is no current recommendation for Copeland to be part of the pool**, we remain part of these on-going discussions and the next meeting is on 23<sup>rd</sup> October. In summary the proposals being worked on are:

- The County Council will be the lead authority in terms of management of transactions (i.e. this does not mean they have more influence than any other member of the pool). A fee will be agreed to enable them to undertake this role.
- It is proposed that the additional income (currently estimated at £2.7m) is shared on the basis of 40% of the net proceeds being distributed in proportion to the gross Levy for each authority, 40% in proportion to the spending baseline and 20% being set aside for a 'volatility reserve' which will be established to assist with potential losses in future years. As and when the pool ends or authorities withdraw, the balance of this reserve would be shared as per the income sharing agreement.
- The application needs to set out how any additional income is used. The proposal is that every pool member commits to using its share to further economic development in its area. Such a commitment fits with the DCLG expectations as the underlying aim of pooling is to encourage greater economic growth.
- Risks will be dealt with in part by the establishing of a volatility reserve. Individual Councils may also wish to consider additional risk strategies by setting up further reserves from additional income generated.
- The governance arrangements once signed by the S151 Officer would constitute a binding agreement between the pool members and the DCLG. Before signing off any arrangements the individual councils Legal Officers will need to ensure they are satisfied with the agreement.

#### **4. OPTIONS TO BE CONSIDERED**

4.1 Currently there are no proposals for Copeland to be part of the application for a Cumbria wide Business Rate pool as the risk is considered to be too great from the impact of a worsening of the Copeland appeals position. However discussions are on-going with DCLG and if they provide enough assurance it may become beneficial to join the pool.

#### **5. CONCLUSIONS AND RECOMMENDATIONS**

- 5.1 There is no decision to be made at this point however the Executive are asked to:
- (i) Note the contents of this report and
  - (ii) Delegate any decision to join the Pool at a later date if it becomes advantageous to do so to the Chief Executive and the S151 Officer in consultation with the Finance Portfolio Holder.

**6. STATUTORY OFFICER COMMENTS:**

- 6.1 The Monitoring Officer's comments are: The governance arrangements once signed by the S151 Officer would constitute a binding agreement between the pool members and the DCLG. Before signing off any arrangements the individual councils Legal Officers will need to ensure they are satisfied with the agreement.
- 6.2 The Section 151 Officer's comments are: Included in the report.
- 6.3 EIA Comments: Not required. There are no negative impacts identified.
- 6.4 Policy Framework: no comments
- 6.5 Other consultee comments, if any: The other Cumbrian authorities are considering their own positions and will decide individually whether to join the pool or not.

**7. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

- 7.1 The risk to the pooling arrangements is from a worsening of the business rate projected income levels. The volatility reserve established will help to mitigate that risk. The management of the pool will be by the County Council and there will be liaison with the Cumbria Chief Finance officers.

**8. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

- 8.1 A new business rates pooling arrangement for Cumbria, which should bring financial benefits to the area. Currently the proposals exclude Copeland being part of the pool for the reasons set out in the report, however if there were some agreement on the treatment of the Copeland appeals then it might be beneficial for Copeland to join the pool.

**9. APPENDICES AND BACKGROUND DOCUMENTS:**

**Background documents:**

- Pooling Prospectus issued by DCLG July 2013.
- Various financial models considered by Cumbria Chief Finance Officers.
- Draft Governance agreement considered by Cumbria Chief Finance Officers and Legal officers.