

## Herefordshire & Worcestershire Business Rates Pool – Pooling Agreement

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This Pooling Agreement sets out the requirements of the Pool and Pool Members for the operation of the Herefordshire & Worcestershire Business Rates Pool. Its contents are set out below:

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This Pooling Agreement also includes the following Schedules that set out in more detail the operation of key aspects of the Pool.

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## **GOVERNANCE ARRANGEMENTS FOR WORCESTERSHIRE BUSINESS RATES POOL**

### **1. Purpose**

- 1.1. This Pooling Agreement sets out the Governance Arrangements that are voluntarily entered into by members of the Worcestershire Business Rates Pool (HWBRP).
- 1.2. These governance arrangements relate to the establishment and operation of a Pool to collect and distribute the Retained Levy that would have been paid to Central Government if those Pool Members were not in the HWBRP under Central Government's Business Rates Retention System.

### **2. Pooling Agreement Review Period**

- 2.1. Members will confirm their wish to continue pool membership for the following financial year in line with the timetable set by Central Government. In practice confirmations should be given to other members by the 16<sup>th</sup> September if possible.

### **3. Pool Composition**

#### Membership

- 3.1. The Members of the HWBRP will be:
  - a. Bromsgrove District Council
  - b. Hereford & Worcester Fire Authority
  - c. Malvern Hills District Council
  - d. Redditch Borough Council
  - e. Worcestershire County Council
  - f. Worcester City Council
  - g. Wychavon District Council
  - h. Wyre Forest District Council
  - i. Herefordshire Council

#### Lead Authority

- 3.2. The HWBRP will be co-ordinated by the Lead Authority on behalf of the Section 151 Officers, Chief Executives and Managing Directors of Pool Members. For the purpose of this agreement, Worcestershire County Council is defined as the Lead Authority.

#### Decision Making Structures

- 3.3. The Governing Body will receive an annual report from the Executive Body that summarises the operation of the HWBRP. This body will be known as the HWBRP Governing Body and will for clarity be comprised of the Leaders from those organisations set out in paragraph 3.1.
- 3.4. For the purpose of this Pool, the Executive Body is the Chief Executives or Managing Directors and Section 151 Officers of the Pool Members. The

Executive Body will approve operational decisions on behalf of the HWBRP and prepare reports for the Governing Body as set out in this agreement.

- 3.5. The Executive Body will require unanimous support to approve 'Key Decisions'. Key decisions are set out below:
- Changes in the levy share mechanism;
  - Changes in the level of risk reserve;
  - Approval of disbursements from the risk reserve;
  - Changes in Pool Membership; and
  - Decisions at Governing Body level that are required as part of the dispute resolution procedure.
- 3.6. The Executive Body will require a simple majority of its full membership to approve all other decisions.

### Approval of new membership

- 3.7. Subject to the unanimous agreement of the Governing Body and the consultation and designation requirements of the Department for Levelling Up, Housing and Communities (DLUHC) being met, the HWBRP may agree to admit additional members.
- 3.8. Admission shall take place with effect from first day of the financial year following an application being made. Prospective members of the HWBRP must apply by the 30 June for admission to HWBRP in the year preceding their proposed admission. Later applications for membership may be considered in exceptional circumstances subject to unanimous agreement of the Governing Body.

## **4. Status of this Pooling Agreement**

- 4.1. Pool Members acknowledge that the following parts of this Pooling Agreement impose significant obligations on them and that the consequences of failure by a Pool Member to meet those obligations should, for the benefit of other Pool Members, give rise to formal legal sanctions if such other Pool Member sees fit to exercise them:
- Section 5 – Dispute Resolution
  - Sub-section 7.5 - Obligation to make payments into the HWBRP
  - Section 8 – Operation of the Pool
  - Section 9 – Dissolution of the Pool
  - Schedule 1 – Operation of the HWBRP Retained Levy Share Mechanism
- 4.2. Notwithstanding this by signing this agreement Pool Members will agree to operate in good faith within all areas of this Pooling Agreement.
- 4.3. Pool Members have approved this Pooling Agreement in advance of the Secretary of State for Levelling Up, Housing and Communities designating the Pool for the purposes of the Business Rates Retention Scheme. An immediate review of this Pooling Agreement will be conducted to consider

any changes that may be needed to operate if conditions are applied to the designation by the Secretary of State.

### **5. Dispute Resolution**

5.1. The following process will apply in the event of any disagreement between members of the Pool if any matter within the remit of the HWBRP cannot be resolved through consensus:

- a. Section 151 Officers shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Pooling Agreement; or then
- b. A vote will be required in accordance with the requirements for Key Decisions set out in paragraph 3.5; or then
- c. Any dispute is escalated to the Governing Body where a decision will be made as a key decision.

5.2. If a dispute cannot be resolved through the process outlined above, an independent mediator will be appointed by the Governing Body to consider representations and to make recommendations.

### **6. Pool Aims**

6.1. Members of the Pool consider that the HWBRP will be an important enabler to drive forward economic growth and create a positive framework for targeted investment across Worcestershire. In addition the HWBRP will have an important role of reinvesting the additional local financial benefits devolved through the localisation of some of the business rates back into the local economic environment should adequate resources exist in the Pool Risk Reserve (if used) to mitigate the effects of volatility in local business rates.

#### A focus on economic development

- a. To provide a new means of delivering the promotion of growth and jobs within Worcestershire and supporting an Open for Business approach across the Pool to investment and inward investment;
- b. Build on and strengthen the working relationships of the local authorities and Local Enterprise Partnership within Worcestershire;
- c. To encourage collaborative working across the local authorities involved in the HWBRP rather than restricting working to the authorities' administrative boundaries;

#### A commitment to working together

- d. Recognise the interdependence of the local authority members;

#### Sharing risk and reward

- e. Sharing of the benefit from investment in economic growth across a wider area; and

- f. Option to reduce the impact of the volatility of business rates income over the Pool by spreading the risk through the operation of a risk reserve (if used) or through the adoption of a no detriment principle.

The intention is that Pool Members should be no worse off than if they were outside the Pool. Pool Members will work together in an open way, including sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.

### **7. Roles and Responsibilities**

- 7.1. As the Lead Authority, Worcestershire County Council will act on behalf of HWBRP and the HWBRP authorities agree to meet the expenses of Worcestershire County Council in so acting. The administration costs of undertaking the role of the Lead Authority shall be funded by the HWBRP members in equal proportion based on a transparent and open memorandum account that details the additional expenditure incurred by the Lead Authority in fulfilling this task. Reimbursement shall be made as a first call on any retained levy and represent a reasonable assessment of the costs of administering the Pool. If the retained levy is not sufficient to cover the administration costs then they will be borne equally by all Pool Members.

- 7.2. An estimate for this task is £2,500 per 2023/24 Pool Member.

- 7.3. As Lead Authority Worcestershire County Council will:
  - a. Administer the transfer of funds between the HWBRP and all relevant parties;
  - b. Administer the transfer of funds relating to any retained levy between the HWBRP members in accordance with the agreed sharing mechanisms as detailed in Schedule 1;
  - c. Co-ordinate the submission of information to the Central Government on behalf of the HWBRP;
  - d. Prepare the calculation of the estimated level of retained levy payments/reduced safety net payments in any financial year and the actual retained levy payments/missed safety net payments after the year end;
  - e. Make reports as appropriate to the Governing Body on a half yearly and annual basis. These will include a review of governance arrangements to include the size of the Risk Reserve and the methodology for the allocation of resources;
  - f. Secure the completion of any legal agreements, accounting and audit arrangements required to support the operation of HWBRP; and
  - g. Lead on the timely provision of the information required, by Pool Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pool.

- 7.4. To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:
  - a. To make payments to the Lead Authority on time and in accordance with the schedule of payments;

- b. To provide accurate, timely information to the Lead Authority to enable all formal Pool returns to Central Government to be completed;
  - c. To inform the Lead Authority, as soon as is practical, of any intelligence that may impact on the resources of the Pool either in the current year or in future years;
  - d. To provide such information as the Executive Body and Governing Body agree is reasonable and necessary to monitor and forecast the Pool's resources within the timescales agreed;
  - e. To provide such information as the Executive Body and Governing Body agree is reasonable and necessary on the use of the Pool's resources for inclusion in the Pool's annual report; and
  - f. To provide 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.
- 7.5. All member authorities of the HWBRP will make relevant payments into the HWBRP as detailed in Section 8 below. Each member of the HWBRP will be liable for any payments required to the DLUHC in the same way as if the Pool does not exist.
- 7.6. Any decisions made by the Governing Body to commit resources will require ratification by each member of the HWBRP's own Governance processes. It is for each member of the HWBRP to decide what mechanism it uses for "ratification" and this can include granting a delegation in advance to its Leader, relevant Cabinet Member or S151 Officer.

### **8. Operation of the Pool**

- 8.1. The collection of business rates will continue to be the responsibility of billing authorities who will continue to use their own bank accounts for this purpose. In addition, the operation of collection funds for business rates will continue to be the responsibility of individual billing authorities.
- 8.2. The timing of tariff payments into the Pool and top-up payments from the Pool will be made in accordance with the payment schedules set by the DLUHC. The intention is that the timing of payments will mirror payment schedules that would apply if no Pool existed. Any payments from the Risk Reserve and distribution of any Retained Levy will be made once any pool levy payment has been confirmed by the DLUHC.
- 8.3. All Pool Members will use best endeavours to ensure each organisation's obligations are met with regard to cashflow and the flow of funds. A Pool Member agrees to compensate another Pool Member where these obligations are not met which requires any other Pool Member to incur costs that could have reasonably been avoided.
- 8.4. A Risk Reserve may be established for the purpose of providing a contribution towards the mitigation of risks inherent in managing business rates locally. It will be managed in accordance with Schedule 1. Any Retained Levy will be added to the Risk Reserve or dispersed in accordance with Schedule 1.

- 8.5. The HWBRP Lead Authority will not carry any additional liabilities further than it would normally bear outside of the Pool except for the management of the Risk Reserve. All interest accruing on the Risk Reserve will be paid into the Risk Reserve. The level of interest accrued on the Risk Reserve will be subject to the annual review by the Executive Body.
- 8.6. Where the Pool is required to make a payment to the Secretary of State, each authority in the Pool is jointly and severally liable to make that payment.

### **9. Dissolution of the Pool**

- 9.1. Membership of the HWBRP is voluntary and a member may leave if it wishes to. If a member wishes to leave the HWBRP, application to dissolve the Pool must be sought from the DLUHC.
- 9.2. Each member of the HWBRP should share any intention to leave the Pool immediately with all members of the HWBRP in order to support strategic financial planning and aim to give at least six months' notice.
- 9.3. In the event of unanimous agreement of HWBRP members, application to dissolve the Pool can be sought immediately recognising that the application will be governed by the timetable set by the DLUHC.
- 9.4. If the DLUHC allows, following its annual local government finance settlement process, any pool member to withdraw from a pooling arrangement and should a HWBRP member wish under these circumstances to seek to leave the Pool then it should inform the other members as soon as possible as the HWBRP cannot be designated for the following financial year.
- 9.5. On dissolution of the Pool, each Pool Member reverts to their individual top-up or tariff amounts as calculated by the DLUHC.
- 9.6. Any member who leaves the HWBRP foregoes any claim on any assets of the HWBRP unless the dissolution is deemed permanent. In the event of permanent dissolution of the Pool any assets of the HWBRP, including funds available in the Risk Reserve, will be disbursed in proportion to the net payments made to the Risk Reserve during the life of that pool and then shared between the County Council and the pool member who made the payments into the pool in the same proportions as in schedule 1.
- 9.7. If the Pool is re-designated after one or more members leave then any existing Risk Reserve from the former Pool becomes the Risk Reserve for the newly designated Pool. In this circumstance the remaining Pool Members may need to reconsider the level of Risk Reserve that is required to mitigate against volatility in Business Rate income following the change in membership.

**Signatories and seals as appropriate Herefordshire & Worcestershire Business Rates Pool**

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement

Bromsgrove District Council

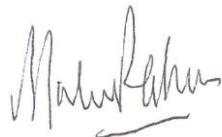


Peter Carpenter  
Interim Director of Finance (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement.

Hereford & Worcester Fire Authority



Martin Rehorn  
Director of Finance (Treasurer) (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement.

Malvern Hills District Council



Andy Baldwin  
Deputy Chief Executive (S151 Officer)



**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement

Redditch Borough Council



Peter Carpenter  
Interim Director of Finance (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

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Worcester City Council

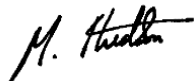


Shane Flynn–  
Director of Finance and Resources (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

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Worcestershire County Council



Michael Hudson  
Chief Financial Officer (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement.

Wychavon District Council



Jayne Pickering  
Deputy Chief Executive (S151 Officer)

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement.

Wyre Forest District Council



Helen Ogram  
Head of Resources and S151 Officer

**Herefordshire & Worcestershire Business Rates Pool**

I, the undersigned, agree to be bound by the requirements of the Herefordshire & Worcestershire Business Rates Pool Pooling Agreement.

Herefordshire Council



Andrew Lovegrove  
Director of Resources and Assurance (S151 Officer)

### **Glossary of Terms**

#### **Lead Authority**

The Local Authority that acts as the Lead Authority for the HWBRP. It has responsibility for all of the monetary flows to and from Central Government. It will be the key contact between Central Government and the Pool.

#### **Baseline Funding Level**

The amount of a Pool Member's funding allocation from the business rates retention scheme. This is the combination of retained business rates plus top-up/minus tariff.

#### **Executive Body**

This is the operational oversight board for the Pool and is made up the Chief Executive or Managing Director and Section 151 Officer for each member of the Worcestershire Business Rates Pool. Appropriate substitutes can be nominated.

#### **Governing Body**

This will comprise the Leaders of the Local Authorities that are members of the Worcestershire Business Rates Pool. Appropriate substitutes can be nominated.

#### **Levy Payment**

A charge made by Central Government to limit disproportionate gains by members of the HWBRP. This has been set by Central Government so that each Local Authority can never see more than a 1% increase in its baseline funding level for each 1% increase in its level of business rates. The Pool captures this levy locally and retains it amongst Pool members.

#### **Retained Levy**

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 the levy to be paid by the Pool.

#### **Safety Net**

The additional funding received by an authority from Central Government, if, in the Government's opinion, the decline in business rates in any year would leave an authority with insufficient resources. This is calculated using a national formula.

#### **Tariff**

The payment made from tariff authorities to Central Government over the course of the financial year due to having a higher level of business rates than the baseline funding level. This is inflated annually by the Retail Price Index.

#### **Top-Up**

The payment made from Central Government to top-up authorities over the course of the financial year due to having a lower level of business rates than the baseline funding level. This is inflated annually by the Retail Price Index.

## **Schedule 1: Operation of the HWBRP Retained Levy Share Mechanism**

### **Principles**

The allocation of resources will be based on the following principles:

Each individual authority will receive at least the same level of funding they would have received without the Pool. The remaining amount will be the “Net Retained Levy”.

Any additional resource that is generated will be shared by Pool Members using the basis of allocation below. This allocation methodology looks to reward members of the Pool for achieving business rate growth.

The rationale for the Pool is to encourage economic growth, therefore Pool Members are encouraged to use the additional resource to promote further economic growth.

### **Basis of Allocation**

The underlying basis of allocation is as follows:

A: The running costs of the Pool, if any, will be initially paid by the lead authority and will be reimbursed to them from a combination of Levy Payment Saved and Net Retained Levy (pooling gain).

Gains made by the HWBRP will be considered as having two distinct components. Firstly, the reduction in Levy payment to Government and secondly, Net Retained Levy as a result of the pooling mechanism.

### **Levy Payment Saved**

Financial Year 2023/24

B: If after A, the HWBRP Levy payment is reduced by the inclusion of Herefordshire Council, the amount of that reduction is to be distributed as follows:

- 60% to be allocated to Herefordshire Council.
- 40% to be allocated to the other HWBRP members, excluding Herefordshire Council and allocated as follows:
- 16% to be allocated to Worcestershire County Council and Hereford & Worcester Fire Authority, in proportion to their Top-Up amounts.
- The remaining 24% will be split amongst the district councils based on business rates growth. This will be achieved by splitting the remaining 24% in proportion to the actual levy payment of the district councils, had they acted individually.

### Subsequent Financial Years

B: If after A, the HWBRP Levy payment is reduced by the inclusion of Herefordshire Council, the amount of that reduction is to be distributed as follows:

- 50% to be allocated to Herefordshire Council.
- 50% to be allocated to the other HWBRP members, excluding Herefordshire Council, and allocated as follows:
- 20% to be allocated to Worcestershire County Council and Hereford & Worcester Fire Authority, in proportion to their Top-Up amounts.
- The remaining 30% will be split amongst the district councils based on business rates growth. This will be achieved by splitting the remaining 30% in proportion to the actual levy payment of the district councils, had they acted individually.

### **Net Retained Levy (pooling gain)**

C: If after B, the net retained levy is greater than £0 (i.e. the pool has made an overall gain), then it will be shared out using the following apportionments.

- 40% to be allocated to Worcestershire County Council and Hereford & Worcester Fire Authority, in proportion to their Top-Up amounts.
- The remaining 60% will be split amongst the district councils based on business rates growth. This will be achieved by splitting the remaining 60% in proportion to the actual levy payment of the district councils, had they acted individually.

D: Where the Net Retained Levy is less than £0, (i.e. where the pool has made an overall loss) – the loss will be in the following proportions:

- 40% to be allocated to Worcestershire County Council, Herefordshire Council and Hereford & Worcester Fire Authority, in proportion to their Top-Up amounts.
- The district councils in the pool at 60%, with each district's amount being proportional to the cash amount that would have been received under the business rates retention scheme if the Pool arrangement was not in operation.