

Derbyshire Business Rates Pilot 2018-19

DRAFT

Memorandum of Understanding

This Memorandum of Understanding is made between:

Amber Valley Borough Council
Bolsover District Council
Chesterfield Borough Council
Derby City Council
Derbyshire County Council
Derbyshire Dales District Council
Derbyshire Fire & Rescue Service
Erewash Borough Council
High Peak Borough Council
North East Derbyshire District Council
South Derbyshire District Council

Together referred to as the 'Pilot' or 'Pilot Members

1 Purpose

- 1.1 Eleven business rates authorities within the county of Derbyshire have joined the Derbyshire Business Rates Pilot in order to provide the most cohesive approach possible to furthering economic development and financial sustainability in the county. Approval from Government has been given on the basis of Derbyshire being a good pilot in a two-tier authority area and be helpful on a proof of concept basis, to enable the Government to develop its 100% Business Rate ambitions from 2020/21.
- 1.2 The estimated additional income to the Pilot in 2018/19 is circa £28m and 30% of this amount – circa £8m, - is to be allocated to the Derby and Derbyshire Joint Committee for Economic Prosperity from its Accountable Body Derbyshire County Council to support new business and business growth across the county. 70% is to be retained by each individual authority. See Appendix 1 for the pilot model agreed at DFOA on 13th April 2018.
- 1.3 25% of the allocation to the Derby and Derbyshire Joint Committee for Economic Prosperity will be held back by the Lead Authority, Derby City Council (circa £2m) to help mitigate against any risk of business rates volatility.
- 1.4 Derby and Derbyshire Joint Committee for Economic Prosperity's allocation will also be net of a contribution to the administration fee for the Lead Authority.

- 1.5 It is the express intention of the Pilot Members to develop and promote economic, environmental and well-being of the communities we serve. By working together we can provide an opportunity to promote further economic growth as well as building financial resilience.
- 1.6 It is the purpose of this Memorandum of Understanding to act as a Statement of Intent that will support the realisation of these benefits in 2018/19.
- 1.7 The Pilot Members have agreed to enter into this Memorandum of Understanding to formalise their commitment and to set out their respective roles and responsibilities.

2 Glossary of Key Terms

- 2.1 There are a number of technical terms used throughout this document. The meanings of these terms are as follows:-

Pilot	Derbyshire Business Rates Pilot to provide the most cohesive approach possible to furthering economic development and financial sustainability in the county, to enable the Government to develop its 100% Business Rate ambitions from 2020/21.
No Detriment	No outcome for any authority should be below the Minimum Funding Level.
Lead authority	The Pilot member who will act as the lead in managing the Authority Pilot's resources in accordance with clause 9.2 of this memorandum and being the key contact between central government and the Pilot – Derby City Council.
Minimum Funding Level (MFL)	The amount of resources a Pilot member would have received had they acted individually

3 Key Principles

- 3.1 The Pilot Members agree that they will operate the Pilot in accordance with the following principles:
 - Increase in Resources
The Pilot Members recognise that the fundamental objective of the Pilot is to generate increased resources for the area, and individual Pilot Members through business rates growth. The Pilot provides the most cohesive approach possible to furthering economic development and financial sustainability in the county.

- **Risk Management**
The Pilot Members agree to protect and mitigate as far as possible the risks associated with the level of business rate income. Income streams to the Pilot Members may be more volatile, whether as the result of a one-off event (for example a successful large rating appeal causing a significant reduction in rate income) or something structural within an area (for example the closure of a major plant). The Piloting arrangements should reduce this volatility. The Government provided also a 'No Detriment' guarantee for the 2018/19 pilot.
- **Fairness**
The Pilot Members agree to share the costs, risks and benefits of local business rate retention proportionately to their growth above the Minimum Funding Level. Pilot Members should be no worse off than if they were outside the Pilot. Derby City Council, as the Pilot's Lead Authority will be reimbursed by £50,000 for treasury management and administration costs incurred in managing the Pilot. These costs will be split on a proportion of the gain above the Minimum Finding Level and includes the apportionment to Derby and Derbyshire Joint Committee for Economic Prosperity.
- **Transparency, Openness and Honesty**
Pilot Members will be open and trusting in their dealings with each other, make information (i.e. NNDR1) and analysis available to each other, discuss and develop ideas openly and contribute fully to all aspects of making the Pilot successful. It also includes sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area.
- **Reasonableness of Decision-Making**
Pilot Members agree that all decisions made in relation to this Memorandum of Understanding shall be made by them acting reasonably and in good faith. All decisions should be made by reaching a consensus position.

4 Binding Memorandum

- 4.1 This Memorandum of Understanding (MOU) is produced as a Statement of Intent and, with the exception of Sections 5, 10 and 11, is not intended to be legally binding.
- 4.2 Sections 5, 10 and 11 are intended to be legally binding and to create obligations between Pilot Members with immediate effect from the execution of this MOU.

5 Term of Memorandum

- 5.1 This MOU shall continue to be in place for 2018 / 19 only.

6 Decision-making

- 6.1 The Section 151 Officers shall be responsible for overseeing the operation of the Pilot and making recommendations to their respective authorities about the way forward.

- 6.2 Derby City Council, as the Lead Authority shall ensure that reports are sent to the Section 151 Officers and Chief Accountants of each Pilot Member at least on a quarterly basis updating them of the performance of the Pilot and advising them of any issues. These reports should be available within six weeks of the quarter end, providing information is submitted to the authority in a timely manner.
- 6.3 For the avoidance of doubt, any substantive decision e.g. commitment of resources, changes in governance or major operational changes shall be referred to each Pilot Member's decision-making regime.

7 Dispute Resolution

- 7.1 The Pilot Members shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of, or in connection to, this MOU. If this cannot be resolved by the Section 151 officers it will be referred to a meeting of all Member authorities Heads of Paid Service for resolution.

8 Resourcing

- 8.1 Each Pilot Member will provide the appropriate resources and will act with integrity and consistency to support the intention set out in this MOU.
- 8.2 In the event that the Lead Authority needs to incur additional expenditure in order to administer the Pilot, any reasonable costs agreed by Pilot members should be the first call on the Net Retained dividend on a % gain basis (Methodology to be agreed).

9 Lead Authority

- 9.1 Derby City Council will act as the Lead Authority for the Pilot.
- 9.2 The responsibilities of the Lead Authority are:
- To make payments on behalf of the pilot members for a schedule of payments to be agreed by the Pilot Members
 - To liaise with, and complete all formal Pilot returns to central government on behalf of Pilot Members; if required
 - To keep Pilot Members informed of all relevant communications with central government with regard to the pilot
 - To manage the resources of the Pilot in accordance with this MoU
 - To prepare the quarterly and annual reports of the Pilot's activity, information to be returned to Derby City Council (within 6 weeks of quarter end/year end)
 - To consult on and administer the schedule of payments between Pilot Members in respect of all financial transactions that form part of the Pilot's resources

- To lead on the timely provision of the information required, by Pilot Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pilot, subject to timely returns from Pilot members.

9.3 To assist Derby City Council, as the Lead Authority in fulfilling this role, the responsibilities of individual Pilot Members are:

- To make payments to the Pilot on time and in accordance with the schedule of payments
- To provide accurate, timely information to the Lead Authority to enable all formal Pilot returns to Central Government to be completed
- To inform Derby City Council as soon as is practical, of any intelligence that may impact on the resources of the Pilot in the current year
- To provide such information as the Section 151 Officers agree is reasonable and necessary to monitor/forecast the Pilot's resources within the timescales agreed
- To provide such information as the Section 151 Officers agree is reasonable and necessary on the use of the Pilot's resources for inclusion in the Pilot's annual report
- To provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable Derby City Council to calculate the end of year accounting entries needed.

10 Cash management

- 10.1 The governing principle for the cash management of the Pilot is that no individual Pilot Member, including the Lead Authority, should incur a treasury management gain or loss as a result of the transfer of funds between Pilot Members.
- 10.2 The Pilot will receive/pay interest annually on any retained resource at the average investment rate of the Lead Authority by the 30th September each year.
- 10.3 Interest will be calculated on an annual basis and allocated to Pilot Members based upon a method agreed by the Section 151 Officers.
- 10.4 Where the Pilot is required to make a payment to the Secretary of State, each authority in the Pilot is jointly and severally liable for the payment made by the Lead Authority.
- 10.5 Any payment made 30 days after the due date may be subject to a late payment interest charge at base rate plus 4%.

11 Allocation of Pilot Resources

11.1 Principles

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

- 70% of the dividend to be retained by each authority
- 30% of the dividend to be allocated and 'ring fenced' to support economic growth in the county (subject to 25% Holdback)
- Each authority will receive its own share of the dividend based on the retained percentages:
 - Derby City Council 99%
 - Derbyshire County Council 49%
 - Derbyshire Fire and Rescue Service 1%
 - District/Borough Councils 50%

11.2 Basis of Allocation

The underlying basis of allocation is as follows:

- A £50,000 as being the estimated running costs of the Pilot will be paid to Derby City Council as the Lead Authority from all participants including the Derby and Derbyshire Joint Committee for Economic Prosperity.
- B Each individual authority will retain 70% of their own dividend subject to funding any detriments within the whole scheme.

If any authority makes a loss below the Minimum Funding Level it should be funded proportionately to the gains of the other Authorities above the MFL.

It should be noted that government provided a one year 'no detriment' guarantee for being a 2018/19 100% Business Rates Pilot in the event of all of the pilot suffering a loss below the Minimum Funding Level.

Each authority will receive its own share of the dividend based on the retained percentages:

- Derby City Council 99%
- Derbyshire County Council 49%
- Derbyshire Fire and Rescue Service 1%
- District/Borough Councils 50%

12 Review arrangements

- 12.1 A review will take place if the MHCLG issue further guidance or requirements throughout the year.

13 Signatories on behalf of the Pilot Members

Section 151 Officers:

Amber Valley Borough Council Sylvia Delahay	Bolsover District Council / North East Derbyshire District Council Dawn Clarke
Chesterfield Borough Council Kevin Hanlon	Derby City Council Don McLure
Derbyshire County Council Peter Handford	Derbyshire Dales District Council Karen Henrickson
Derbyshire Fire & Rescue Service Simon Allsop	Erewash Borough Council David Watson
High Peak Borough Council	South Derbyshire District Council

APPENDIX A

Andrew Stokes	Kevin Stackhouse
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APPENDIX A

100% pilot modelling																											
County		Derbyshire																									
100% Business Rate Pilot		Derbyshire																									
100% pilot																											
										Minimum Fund		0.000															
										Strategic fund		8.113		30%		Safety net (loc		92.5%									
																Safety net (100		97.0%									
	Tier split	Business Rates Baseline	Baseline Funding Level	Top-up/ Tariff	Safety Net Threshold (local authority)	Share of retained rates	Share of retained rates (after top-up or tariff)	Retained rates compared to BFL	Safety net payment	"No Detriment"	Retained rates plus safety net and "no detriment"	Minimum Funding Level	Growth distribution	MFL + Growth Distribution	Amount Below MFL	Scaling Funds	Scaling Amount	Retained rates (after levy and safety net) compare	Share of gains								
Derbyshire	49%	94.179	137.210	43.031	133.093	113.754	156.785	19.575	0.000		19.575	5.627	9.764	15.391	0.000	13.949	-4.185	15.391	26%								
Derbyshire Fire Authority	1%	2.730	13.352	10.622	12.952	3.467	14.089	0.737	0.000		0.737	0.000	0.737	0.000	0.000	0.000	0.000	0.737	1%								
Derby	99%	80.009	74.420	-5.589	72.188	100.087	94.498	20.078	0.000		20.078	10.580	6.648	17.228	0.000	9.498	-2.849	17.228	30%								
Amber Valley	50%	15.031	3.567	-11.463	3.460	16.422	4.959	1.392	0.000		1.392	1.120	0.190	1.310	0.000	0.272	-0.082	1.310	2%								
Bolsover	50%	10.366	4.373	-5.993	4.242	13.675	7.682	3.309	0.000		3.309	2.642	0.467	3.109	0.000	0.667	-0.200	3.109	5%								
Chesterfield	50%	17.843	4.104	-13.738	3.981	19.824	6.086	1.981	0.000		1.981	1.589	0.275	1.864	0.000	0.392	-0.118	1.864	3%								
Derbyshire Dales	50%	9.336	2.013	-7.923	1.952	11.201	3.277	1.265	0.000		1.265	1.012	0.177	1.189	0.000	0.253	-0.076	1.189	2%								
Erewash	50%	11.821	3.759	-8.062	3.647	14.195	6.133	2.374	0.000		2.374	1.901	0.331	2.232	0.000	0.473	-0.142	2.232	4%								
High Peak	50%	12.764	2.523	-10.241	2.448	14.586	4.345	1.822	0.000		1.822	1.457	0.265	1.712	0.000	0.364	-0.109	1.712	3%								
North East Derbyshire	50%	7.287	3.036	-4.251	2.945	9.765	5.515	2.479	0.000		2.479	1.981	0.348	2.329	0.000	0.497	-0.149	2.329	4%								
South Derbyshire	50%	11.008	2.766	-8.242	2.683	14.359	6.118	3.351	0.000		3.351	2.674	0.475	3.148	0.000	0.678	-0.203	3.148	5%								
No detriment payment															0.000		0.000	0.000	0%								
Strategic Investment Fund													8.113	8.113	8.113			8.113	14%								
TOTAL		272.973	251.124	-21.849	148.543	331.336	309.487	58.363	0.000	0.000	58.363	31.319	27.043	58.363	8.113	27.043	-8.113	58.363	100%								
					Amount above safety net threshold	160.944	Increase in share		27.043	27.043	Strategic share =		30%														
							Levy gain		7.188	0.000																	
							Safety net gain		0.000	0.000																	
							34.231		27.043	Scaling Amount required excluding "no detriment" payment		8.113															
							0.000		0.000																		