

DRAFT

The Barking and Dagenham, Basildon, Havering and Thurrock Business Rate Pool 2014

Memorandum of Understanding

This Memorandum of Understanding is made between

The London Borough of Barking and Dagenham

and

Basildon District Council

and

the London Borough of Havering

and

Thurrock Borough Council

(Together referred to as the 'Pool' or 'Pool Members').

1. Purpose

- 1.1. It is the express intention of the Pool Members to improve the well-being of the communities we serve. By working together we can retain a greater proportion of any business rate growth within the Pool area, providing an opportunity to promote further economic growth as well as building financial resilience.
- 1.2. It is the purpose of this Memorandum of Understanding to act as a Statement of Intent that will support the realisation of these benefits. The Pool 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:

Levy	The excess business rates generated locally compared to the need to spend that have to be paid over to central government. Calculated using a nationally set formula.
Business Rate Pool	A voluntary arrangement amongst a group of local authorities to

pool the business rates generated locally to ensure at least some of any levy is retained locally.

Net 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 less any safety net funding that would have been due to individual Pool members if the Pool did not exist and less the administrative costs of 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. Calculated using a national formula
Economic Regeneration Fund	A fund that will hold an element of the Net Retained Levy to be used by the authorities within the pooling area.
NNDR1	A central government form used to estimate a future year's business rates. Prepared on an annual basis by all billing authorities and used as the basis for allocations
Lead Authority	The Pool member who will act as the lead in managing the Pool's resources and being the key contact between central government and the Pool

3. Key Principles

3.1. The Pool Members agree that they will operate the Pool in accordance with the following principles:

- Increase in Resources
The Pool Members recognise that the fundamental objective of the Pool is to generate increased resources for the area, and individual Pool Members
- Risk Management
The Pool Members agree to protect and mitigate as far as possible the risks associated with the level of business rate income. Income streams to the Pool Members may be more volatile, whether as the result of a one-off event (for example a successful large appeal) or something structural within an area (for example the closure of a major plant). The pooling arrangements should reduce this volatility.
- Fairness
The Pool Members agree to share the costs, risks and benefits of local business rate retention proportionately. Pool Members should be no worse off than if they were outside the Pool.
- Transparency, Openness and Honesty
Pool Members will be open and trusting in their dealings with each other, make information and analysis available to each other, discuss and develop ideas openly and contribute fully

to all aspects of making the Pool 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
Pool Members agree that all decisions made in relation to this Memorandum of Understanding shall be made by them acting reasonably and in good faith.

4. Binding Memorandum

- 4.1. This Memorandum of Understanding 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 Pool Members with immediate effect from the execution of this Memorandum of Understanding.
- 4.3. Pool Members have approved this Memorandum of Understanding in advance of the Secretary of State designating the Pool for the purposes of the Business Rates Retention Scheme. If the Secretary of State adds conditions to the designation, either initially or at any point in the future an immediate review of this Memorandum of Understanding, as outlined in Section 12, will be triggered.

5. Term of Memorandum

- 5.1. This Memorandum of Understanding shall continue to be in place unless terminated in accordance with these terms.
- 5.2. Any Pool Member can leave the Pool from 1 April of the following financial year providing:
 - Written notice is given to other Pool Members and CLG in at least sufficient time for the Pool to remain in place for the remaining Pool Members, should they wish it to continue. Sufficient time is taken to be at least the time specified by CLG in regulations and/or guidance.
 - All liabilities to and from the Pool are paid.

6. Decision-Making

- 6.1. The Section 151 Officers shall be responsible for overseeing the operation of the Pool and making recommendations to their respective authorities about the way forward.
- 6.2. The Lead Authority shall ensure that reports are sent to the Section 151 Officers of each Pool Member at least on a quarterly basis updating them of the performance of the Pool and advising them of any issues. These reports should be available within six weeks of the quarter end.
- 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 Pool Members' decision-making regime.

7. Dispute Resolution

- 7.1. The Pool Members shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Memorandum of Understanding. 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 Pool Member will provide the appropriate resources and will act with integrity and consistency to support the intention set out in this Memorandum of Understanding.
- 8.2. The Lead Authority may need to incur additional expenditure in order to administer the pool. Any reasonable costs agreed by pool members should be the first call on the Net Retained Levy.

9. Lead Authority

- 9.1. Thurrock Borough Council will act as the Lead Authority for the Pool.

- 9.2. The responsibilities of the Lead Authority are:

- To make payments on behalf of the Pool to central government and Pool Members on time and in accordance with the schedule of payments,
- To liaise with and complete all formal Pool returns to central government on behalf of Pool Members,
- To keep Pool Members informed of all communications with central government,
- To manage the resources of the Pool in accordance with this MoU,
- To prepare quarterly monitoring reports and consolidate intelligence on future resource levels on behalf of the Pool,
- To prepare the annual report of the Pool's activity,
- To co-ordinate the annual review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources,
- To consult on and administer the schedule of payments between Pool Members in respect of all financial transactions that form part of the Pool's resources, and
- To 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.

- 9.3. To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:

- To make payments to the Pool on time and in accordance with the schedule of payments,
- To provide accurate, timely information to the Lead Authority to enable all formal Pool returns to central government to be completed,
- To inform the Lead Authority, as soon as is practical, of any intelligence that may impact of the resources of the Pool either in the current year or in future years,
- To provide such information as the Section 151 Officers agree is reasonable and necessary to monitor/forecast the Pool'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 Pool's resources for inclusion in the Pool's annual report, and

- 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.

10. Cash Management

- 10.1. The governing principle for the cash management of the Pool is that no individual Pool Member, including the Lead Authority, should incur a treasury management gain or loss as a result of the transfer of funds between Pool Members.
- 10.2. The Pool will receive/pay interest annually on any retained resource at the average investment rate of the Lead Authority.
- 10.3. Interest will be calculated on an annual basis and allocated to Pool Members based upon a method agreed by the Section 151 Officer.
- 10.4. 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.
- 10.5. Any late payment may be subject to a late payment interest charge at base rate plus 4%.

11. Allocation of Pool Resources

11.1. Principles

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

- No authority will receive a lower level of funding than they would have received without the Pool.
- Any additional resource is generated because of the Pool and therefore the benefits will be shared across the Pool. The allocation of any retained resource will reflect where the growth occurred and the relative spending need of Pool Members.
- 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.

11.2. Basis of Allocation

The underlying basis of allocation is as follows:

A: The running costs of the pool, if any, will be paid to the lead authority.

B: Each individual authority, where resources allow, will receive the same level of funding they would have received without the Pool (excluding running costs).

The remaining amount will be the net retained levy.

If after commitment A, commitment B cannot be met, each authority will receive an allocation of resources proportional to the amount that would have been received without the pool. For example, if £10m was required to meet commitment B and only £9.8m in resources was available, each authority would receive 98% of the amount that would have been received without the pool.

11.3 Allocation of the Net Retained Levy

The allocation of the Net Retained Levy will be calculated as follows:

- xxxxxx
- x% to the Economic Regeneration Fund

11.4 Allocation from the Economic Regeneration Fund

- Allocations will be made from the Fund by the Lead Authority to projects and initiatives agreed by the Pool Members.
- Every effort should be made to achieve unanimous decisions in respect of the allocations. In the event of a disagreement, the matter will be referred to the Heads of Paid Services for a resolution.
- When a Pool Members leaves or the Pool is dissolved each authority will refund the Pool or receive from the Pool the balance in their Memorandum Local Volatility Fund.

12. Review Arrangements

- 12.1. A review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources will be undertaken on an annual basis. It will be co-ordinated by the Lead Authority on behalf of the Section 151 Officers and in sufficient time for any changes in Pool Membership to be in place before the start of the following financial year.

13. Signatories on behalf of the Pool Members

The London Borough of Barking and Dagenham

Basildon District Council

London Borough of Havering

Thurrock Borough Council