

# CABINET

23 January 2018

<b>Title:</b> Pooling of Business Rates	
<b>Report of the Cabinet Member for Finance, Growth and Investment</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> Yes
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<b>Accountable Strategic Director:</b> Claire Symonds, Chief Operating Officer	
<b>Summary:</b> <p>The Government has indicated its desire for a business rates pilot pool to be established in April 2018 for London as part of its devolution agenda. The Leaders' Committee at London Councils has indicated an in-principle agreement to an application to Government for such a pool, subject to the individual approval of all London authorities.</p> <p>For the proposals to proceed and for them to be reflected in the provisional finance settlement due in mid-December, it was necessary for all London authorities to indicate an in-principle intention to proceed before the Autumn budget (22 November).</p> <p>The Government announced in its Autumn statement that it had agreed a pilot of 100% business rates retention in London in 2018-19.</p> <p>Formal and final decisions will need to be taken by all London authorities by mid-January 2018, in order to be reflected in the final local government settlement in February 2018.</p> <p>This report sets out the issues and the proposed timetable.</p>	
<b>Recommendation(s)</b> <p>Cabinet is recommended to:</p> <ol style="list-style-type: none"><li>i) Approve and accept the designation by the Secretary of State as an authority within the London Business Rates Pilot Pool pursuant to 34(7)(1) of Schedule 7B Local Government Finance Act 1988;</li><li>(ii) Delegate the Council's administrative functions as a billing authority to the appropriate lead authority / joint committee;</li><li>(iii) Delegate authority to the Leader and the Chief Operating Officer to agree the operational details of the pooling arrangements with the participating authorities;</li></ol>	

- (iv) Authorise the Chief Operating Officer, in consultation with the Director of Law and Governance, to enter into such agreement(s) as may be necessary to implement the Pool and to negotiate, finalise and execute the same on behalf of the Council; and
- (v) Appoint the Leader as the Council's representative at meetings to consider the allocation of the Strategic Investment Pot and to authorise the Leader, in consultation with the Cabinet Member for Finance, Growth and Investment, the Chief Executive and the Chief Operating Officer, to take decisions on behalf of the Council in respect of Strategic Investment Pot allocations.

**Reason(s)**

Entering the London Business Rates pilot will support the London Devolution agenda, and the benefits deriving from being in the London pool will directly support the Council's vision of being London's Growth Opportunity.

## **1.0 Introduction and Background**

- 1.1 The Government has now indicated its renewed desire to see a business rate pilot pool established in London in April 2018, as indicated in the previous Memorandum of Understanding (MoU) between the Government and London signed in March 2017. At the London Councils Leaders' Committee on 10 October, it was agreed to support an application for the pool in principle, subject to the agreement of all individual participating authorities. This report sets out how the pool might work and the associated governance and timetabling issues.
- 1.2 London Councils has provided a prospectus of how a London pool might operate, and how the potential financial benefits might be shared among London Authorities (The GLA, the City and the 32 London Boroughs). A summary of the final prospectus is provided in Appendix 1 for information.
- 1.3 The Council is currently within a pool with LB Havering, Thurrock Council, and Basildon Council which was agreed by Cabinet in October 2013. The original pool was estimated to generate savings of £13.2m across four boroughs. However, due the large number of appeals both Basildon and Thurrock have faced in recent years, there has been little gain to date from the pool. 2017/18 will be the first year that the Council stands to gain from the current pool; the amount will be known at year end. The Council has informed DCLG of the intention to leave this current pool.

## **2.0 Pooling Mechanism**

- 2.1 From 1 April 2018 the London authorities will retain 100% of their non-domestic rating income. London will not retain 100% of total rates collected, as it will continue to pay an aggregate tariff to government. The London pool will retain 100% of any growth in business rate income above baselines, and will pay no levy on that growth.
- 2.2 London authorities will also receive section 31 grants in respect of Government changes to the business rates system which reduce the level of business rates income. Section 31 grant will amount to 100% of the value of the lost income.

- 2.3 No “new burdens” will be transferred to London and participation in the pilot will not affect the development or implementation of the Fair Funding Review.
- 2.4 In the event that London’s business rates income fell, the pool will have a higher “safety net” threshold – 97% rather than 92.5% of the overall baseline funding level – than in the existing system, reflecting the greater reliance local authorities will have on business rates within the pilot.
- 2.5 The prospectus identifies two founding principles that are envisaged to be the basis for agreement whereby:
1. no authority participating in the pool could be worse off than they would otherwise be under the 50% scheme; and
  2. all members would receive some share of any net financial benefits arising from the pilot pool.
  3. the pool in 2018-19 would not bind boroughs or the Mayor indefinitely
- 2.6 In addition, four objectives are proposed to inform the distribution of an aggregate financial benefit that may accrue from being in a pool:
- **incentivising growth** (by allowing those boroughs where growth occurs to keep some proportion of the additional resources retained as a result of the pool)
  - **recognising the contribution of all boroughs** (through a per capita allocation)
  - **recognising need** (through the needs assessment formula); and
  - **facilitating collective investment** (through an investment pot designed to promote economic growth and lever additional investment funding from other sources).
- 2.7 The prospectus had put forward four options which weighted the four objectives above and is outlined below:
- Option A: weights each pot at 25%
  - Option B: Incentives (30%), Needs/Population (30% each) and Investment (10%)
  - Option C: Incentives (40%), Needs/Population (20% each) and Investment (20%)
  - Option D: Incentives (20%), Needs/Population (30% each) and Investment (20%)

Exemplification of the four weightings for LBBD and our neighbouring boroughs:

	OPTION A	OPTION B	OPTION C	OPTION D
<b>B &amp; D</b>	<b>2.0</b>	<b>2.4</b>	<b>1.8</b>	<b>2.4</b>
BEXLEY	2.4	2.9	2.6	2.5
ENFIELD	3.4	3.7	2.9	3.5
GREENWICH	2.7	3.3	2.3	3.2
HAVERING	1.9	2.3	1.8	2.1
NEWHAM	5.4	6.5	6.0	5.7
REDBRIDGE	2.2	2.6	1.8	2.6
LBWF	2.3	2.8	1.9	2.8
<b>TOTAL SHARE</b>	<b>22.3</b>	<b>26.5</b>	<b>21.1</b>	<b>24.8</b>

- 2.8 The Leaders' Committee delegated further negotiations on detailed matters (including the proposed distribution methods) to be then put to individual authorities and the Mayor of London for agreement to the Chief Executive of London Councils, in consultation with London Councils' Chair, Deputy Chair and Vice Chairs.
- 2.9 Following lengthy discussions, a new distribution weighting has been agreed. On 10 November 2017, the Chair of London Councils wrote to Borough Leaders advising them of the updated position, with the agreement of the new option that weighted the distribution at 15% rates growth; 35% to needs; 35% to population and 15% to an investment pot. This new distribution is in LB Barking and Dagenham's favour, and the estimated share of the £240m under this **option is £2.8m** (higher than under any of the original options above).
- 2.10 The financial gains are based on estimates using forecasts from London Boroughs and therefore the figures are largely illustrative, and a lower set of figures is entirely possible. London Councils have used an ambitious growth rate of 6% across London; the average growth rate since the introduction of the business rates retention scheme across London has been 3%. For Barking and Dagenham, the average growth rate has been -3.5%.

### **3.0 Governance and Timetabling**

- 3.1 The Pilot Pool will operate from 1 April 2018 to 31 March 2019.
- 3.2 The pool in 2018-19 would not bind Councils or the Mayor indefinitely – the founding agreement includes notice provisions for authorities to withdraw provided notice is given by 31 August each year. Were the pool to continue beyond 2018/19, unanimous agreement would be required to reconfirm a pool from 2020/21.
- 3.3 Bringing a pilot pool into effect requires two separate, but inter-related strands of decision-making:
- between the London local authorities, the Mayor, and the Government by which the Government designates the pool; and
  - between the London local authorities and the Mayor of London by which London Government collectively decides how to operate the pool and distribute any financial benefits.
- 3.4 A 2018/19 pilot requires in principle agreement to be achieved between the authorities and the government before the Autumn Budget for inclusion in the Provisional Local Government Finance Settlement in mid-December. The Government announced in its Autumn Statement that the application for a further London business rates pilot will go ahead for 2018/19. Following the Provisional Settlement, any authority that did not want to proceed on the agreed terms would have 28 days to inform the government. If this happened, the pilot pool would no longer be viable.
- 3.5 The agreement between the authorities on the framework for operating the pool, will be progressed in parallel. To facilitate this process London Councils has procured legal advice on behalf of all the London local authorities (working in collaboration with the GLA) which will inform detailed guidance and frame the required decisions for

member authorities to adopt and/or adapt to reflect their individual constitutional arrangements to give effect to the proposals.

- 3.6 As in other existing pools, it is a statutory requirement that a “lead authority” acts as the accountable body to government and is responsible for the administration of the pooled fund. The City of London has agreed to be the lead authority for the London business rates pool.

The lead authority’s standard responsibilities will include, but not be limited, to:

- all accounting for the finances of the pool including payments to and from the Government;
- management of the pool's collection fund;
- all audit requirements in relation to the pool;
- production of an annual report of the pool's activity following final allocation of funds for the year;
- the administration of the dissolution of the pool;
- all communications with the DCLG including year-end reconciliations; and
- the collation and submission of information required for planning and monitoring purposes.

- 3.7 **Governance of the strategic investment pot:** The pot (15%) would be dedicated to projects that contribute to the sustainable growth of London’s economy, and which attract match funding from other private or public sources. Following legal advice, decisions would be taken formally by a lead authority in consultation with all member authorities, reflecting the principles set out in our draft prospectus and reported to Leaders’ Committee in October.

The governance of the SIP should permit the Lead Authority to make decisions on the use of resources within the SIP where both the GLA and at least two thirds of the London Boroughs are in favour (subject to no participating authorities in one sub-region<sup>2</sup> unanimously disagreeing with the decision).

The lead authority will oversee the methodology for the allocation of resources and prepare reports on proposals for the SIP, supported by London Councils and the GLA, in accordance with the agreed criteria. Decisions on allocating the strategic investment pot will be taken bi-annually with the lead authority reporting back on decisions, following consultation with all participating authorities, at each meeting of the Congress of Leaders and the Mayor of London.

The Lead Authority will prepare reports with proposed recommendations as to SIP allocations and shall circulate the reports to the Participating Authorities for consultation in advance of Congress meetings and each Participating Authority will decide, in accordance with its own governance process and scheme of delegation, whether that Participating Authority wishes to recommend to the lead authority that a strategic investment project is supported or rejected and if rejected together with its reasons for such recommendation.

The Council is required to nominate an elected member representative (e.g. the Leader) to attend twice yearly meetings to be informed on the Lead Authority's decision(s) regarding the allocation of the Strategic Investment Pot. It is anticipated that this will be incorporated within the existing system of meetings of the Congress of Leaders and the Mayor of London.

3.8 If a final agreement is achieved, the Government would prepare a “designation order” establishing a London pilot pool and would reflect this in the Provisional Local Government Finance Settlement in December. If any authority were then to decide to opt out within the following 28 days – that is, by mid-January – the pool would not proceed.

#### **4.0 Financial Implications**

Implications completed by Zaber Ahmed, Principal Accountant

4.1 The net one-off financial gain in 2018/19 from participating in the pool is estimated at £240m for all London Boroughs and Greater London Authority. On current estimates the choice of distribution would give Barking & Dagenham a one-off financial benefit of £2.8m.

4.2 The financial gains are based on estimates using forecasts from London Boroughs and therefore the figures are largely illustrative, and a lower set of figures is entirely possible. However, the example serves to illustrate the potential direct financial benefit of joining a pool on the pilot basis being offered. The Council has therefore set aside £1.1m for 2018/19 in the latest MTFS which was reported to Cabinet in November 2017.

#### **5.0 Legal Implications**

Implications completed by Dr Paul Feild, Corporate Governance Lawyer

5.1 As set out in the report legal advice has been sought by London Councils as the options and lawfulness of the arrangements proposed. Pooling arrangements have been used by the Council in the past and to good effect. As outlined above there has been estimated a sizable benefit from participating in the pool in 2018/19. A lead Authority will manage the pool, it being proposed to be the City of London.

5.2 The foundation for the pool’s operation by virtue of Schedule 7B of the Local Government Finance Act 1988. A memorandum of understanding with a commitment that no London Council will be worse off from joining the pool and can opt out if it so chooses at a later stage providing appropriate notice is given. There will be a need to enter into legal agreements and this report seeks such authority. All documentation will be reviewed in due course to ensure that they are in the Council’s best interest. The pilot is for one year. Going forward such arrangements will be kept under review and advice given as required.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices**

**Appendix 1** – Local Council’s prospectus on how the Pilot Pool would operate