



dated

2017

The Greater London Authority

and

The London Boroughs

and

COLC

(together the Participating Authorities)

Memorandum of understanding

in relation to London Business Rates Pool

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Contents

1	Legal Effect and Definitions	1
2	Background	2
3	Aim/Rationale of the Pool	3
4	Principles of the Pilot Pool	3
5	Term of MOU	4
6	Distribution of any financial benefit	5
7	Governance	6
8	Lead Authority	6
9	Participating Authorities' responsibilities	8
10	Strategic investment	8
11	Dissolution of the Pool	9
12	Signatories for and on behalf of the Participating Authorities below in their official capacity	10
	Appendix 1 - Draft Designation Order	13
	Appendix 2 - London Boroughs	16
	Appendix 3 - Notional RSG	18
	Appendix 4 – Map of sub-regions	20

London Business Rates Pool

Memorandum of Understanding

THE GREATER LONDON AUTHORITY and THE LONDON BOROUGHS and COLC

(together the "Participating Authorities")

1 Legal Effect and Definitions

1.1 This Memorandum of Understanding is produced as a Statement of Intent by the Participating Authorities and shall not be legally binding.

COLC means the City of London Corporation, acting by the Common Council in its capacity as a local authority and billing authority;

DCLG means the Department for Communities and Local Government;

Designation Order means the designation order made by the Secretary of State for Communities and Local Government pursuant to his/her powers under Schedule 7B, Paragraph 34 of the LGFA 1988 a draft of which is annexed at Appendix 1;

Government means Her Majesty's Government of the United Kingdom;

Lead Authority and Accountable Body means the City of London Corporation acting in its capacity as a local authority and a Participating Authority who shall act as the Accountable Body and lead in managing the Pool's resources, day-to-day financial management of the Pool and the financial interactions with the Government in relation to the Pool and shall constitute the key contact between the Government and the Pool;

Leaders mean the leaders (including elected Mayors where applicable) of the Participating Authorities or, in the case of the COLC, the Chairman of the Policy and Resources Committee of the Common Council;

LGFA 1988 means the Local Government Finance Act 1988 (as amended by the Local Government Finance Act 2012);

London Boroughs means the 32 London Boroughs as set out at Appendix 2;

London Local Authorities means the London Boroughs and the City of London Corporation in its capacity as a local authority;

NDR Levy Regulations means Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (SI 2013/737) (as amended);

NDRR Retention Regulations means Non-Domestic Rating (Rates Retention) Regulations 2013 (SI 2013/452) (as amended);

ONS means Office for National Statistics;

Participating Authorities means the London Boroughs, the City of London Corporation (**COLC**) acting in its capacity as a local authority and the Greater London Authority (**GLA**) and **Participating Authority** shall be construed accordingly;

Pool means the London business rates pool for 2018-19 between the Participating Authorities in accordance with this Memorandum of Understanding;

Section 31 Grant means grant paid by a Minister of the Crown to a local authority in England in accordance with section 31 of the Local Government Act 2003;

Strategic Investment Pot (SIP) means the funds made available for strategic investment pursuant to top slicing in accordance with paragraph 6.1.3 which shall be used by the Participating Authorities following the Lead Authority's approval to fund projects that will deliver economic growth for London;

Strategic Investment Projects means projects which are potentially eligible for strategic investment from the SIP.

2 **Background**

2.1 This Memorandum of Understanding (**MOU**) between the Participating Authorities sets out the terms by which the Participating Authorities have collectively agreed to operate the Pool and distribute the financial benefits.

2.2 The Participating Authorities agree to act collaboratively and to co-operate with each other in utmost good faith.

2.3 Autumn Budget 2017 confirmed government commitment to the London Business Rates retention pilot for 2018/19. This was formally confirmed in a Memorandum of Understanding on the London 100% business rates retention pilot 2018/19 signed by the Mayor, the Chair of London Councils, the Minister for London and Secretary of State for Communities and Local Government.

- 2.4 The Government has prepared the attached draft Designation Order establishing the Pool and shall reflect this in the Provisional Local Government Finance Settlement in December 2017.
- 2.5 The Government is committed to giving the Participating Authorities greater control over the revenues they raise. Subject to the evaluation of the Pilot, the Government will work with London Local Authorities and the GLA to explore the options for grants including, but not limited to: Public Health Grant and the Improved Better Care Fund being transferred to the Pool; the potential for transferring properties in London on the central list to the local list where appropriate; and legislative changes needed to develop a joint committee model for future governance of a London pool.
- 2.6 The Government shall undertake a qualitative evaluation of the progress of the Pool based on the current research programme for the existing business rate retention pilots, with additional focus on the governance mechanism and decision-making process, and the scale of resources dedicated to strategic investment.
- 2.7 Subject to an evaluation of the governance mechanism for the Pool (see paragraph 7), the Government shall explore legislative changes needed to develop a joint committee model in future.

3 Aim/Rationale of the Pool

- 3.1 The Pool will aim to improve the well-being of the communities the Participating Authorities serve in London. By working together they can retain a greater proportion of business rate growth within London, providing opportunities to further economic growth as well as building financial resilience.

4 Principles of the Pilot Pool

- 4.1 The Participating Authorities hereby confirm their agreement to participate in compliance with this MOU and confirm that they have resolved or intend to duly and properly resolve to accept the Designation Order in satisfaction of Schedule 7B, Paragraph 34(2) of LGFA 1988.
- 4.2 From 1 April 2018 the Participating Authorities shall retain 100% of their non-domestic rating income¹. The Participating Authorities shall also receive Section 31 Grant from the Government in respect of changes to the business rates system. Section 31 Grant shall amount to 100% of the value of the lost income.

¹ As defined in the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI2013/452) (as amended).

- 4.3 In moving to 100% rates retention, the DCLG shall not pay Revenue Support Grant (**RSG**) to the London Local Authorities in 2018/19. The equivalent value of the notional RSG in 2018/19 is set out in Appendix 3. Tariffs and top-ups will be adjusted accordingly to reflect both the 100% retention of rating income and higher funding baselines.
- 4.4 The Participating Authorities shall not be subject to more onerous rules or constraints under the 100% rates retention Pilot, than they would have been if they had remained subject to the 67% retention scheme in place in 2017-18 (which reflects the incremental impact of the GLA's partial pilot as a result of the rolling in of the GLA's RSG and the Transport for London investment grant). No "new burdens" will be transferred to the Participating Authorities and participation in the Pilot will not affect the development or implementation of the Fair Funding Review.
- 4.5 Levy and safety net payments due from/to the Pool shall be calculated in accordance with the NDR Levy Regulations, as if the Participating Authorities were not 100% pilots, but instead were operating under the 50% rates retention scheme adjusted for the GLA's partial pilot for 2017-18 which is continuing as part of the Pool and increased the locally retained share to 67%.
- 4.6 However, notwithstanding the calculation of levy and safety net payments under the NDR Levy Regulations, the Government shall calculate levy and safety net payments due from/to the Pool on the basis that it has a "zero levy rate" and "safety net threshold" of 97%, and that the Participating Authorities will be retaining 100% of London's business rates income. The difference between any sums due under this calculation and the levy/safety net due shall be paid to the Pool via a Section 31 Grant.
- 4.7 This Pool shall be without detriment to the resources that would have been available collectively to the Participating Authorities under the current local government finance regime, over the four year settlement period. This includes current 67% scheme growth, and reflects Enterprise Zones and "designated areas" where the designations made by the Secretary of State came into force on or before 1 April 2018, along with other special arrangements, such as the statutory provision to reflect the unique circumstances of the COLC, as currently contained in Part II of Schedule 7 to the Local Government Finance Act 1988 and paragraph 1(2) of Schedule 1 to the Non-Domestic Rating (Rates Retention) Regulations 2013.

5 **Term of MOU**

- 5.1 This MOU comes into effect from 1st April 2018 and shall continue to be in place unless terminated in accordance with paragraph 5.2 and 11 below ("Dissolution of the Pool").

5.2 Were the Pilot to be revoked or the Government to decide that the Pilot should cease after one year, then the Pool shall lapse at the end of that year and shall be dissolved in accordance with the provisions contained in paragraph 11 below. However, were the Pilot to be continued, the Pool shall continue up to 31st March 2020 unless otherwise agreed by all the Participating Authorities or unless any Participating Authority should choose to leave the Pool in accordance with paragraph 11.2 below.

6 **Distribution of any financial benefit**

6.1 This MOU shall constitute the framework agreement for the operation of the Pool in which:

6.1.1 each of the Participating Authorities shall receive at least as much from the Pool as they would have individually under the previously applicable 67% retention scheme;

6.1.2 the distribution of net additional benefit through growth in business rates collected in London will, subject to paragraph 6.1.3, be allocated to Participating Authorities on the basis of the following proportions:

- (a) 15% to incentivise growth by allowing the Participating Authorities where growth occurs to keep a proportion of the additional resources retained as a result of the Pool;
- (b) 35% to reflect the Settlement Funding Assessment;
- (c) 35% according to each Participating Authority's per capita formulation as calculated by the ONS projection for the relevant year (starting with 2018); and
- (d) 15% for the SIP (see paragraph 10 below).

6.1.3 the GLA shall be allocated 36% of each of the sums falling within the subparagraphs (a) to (c) above, in order to ensure that such resources as are not top-sliced for the SIP shall be shared between the GLA and the London Local Authorities in the ratio 36:64, in accordance with the principle previously agreed by London Councils and the GLA in the joint business rate devolution proposals to the Government in September 2016².

² <http://www.londoncouncils.gov.uk/node/30451>.

7 **Governance**

- 7.1 The Participating Authorities have resolved to delegate administrative functions in respect of their powers as billing authorities³ under the NDRR Retention Regulations to COLC acting as the Lead Authority and pursuant to s101 Local Government Act 1972 or Section 9EA(1) of the Local Government Act 2000 where the authorities operate executive arrangements to COLC as the Lead Authority and Accountable Body.
- 7.2 The GLA has resolved to delegate administrative functions as a major precepting authority under s.39(1)(aa) of the Local Government Finance Act 1992 to COLC.

8 **Lead Authority**

- 8.1 COLC shall act as the accountable body to Government and administer the Pool and provide a secretariat with the assistance of the GLA and London Councils for assessing the Participating Authorities' applications for the SIP against the criteria set out in 10.3.
- 8.2 The GLA shall provide transactional support to the COLC, including treasury management issues and making any monetary transfers between billing authorities in respect of the Pool on behalf of the Lead Authority including any sums due to the GLA. These monetary transfers between participating authorities will be collected or paid by the GLA on the basis of a schedule of payments which will be determined by the COLC in agreement with the Pool, reflecting the Government's payment requirements. This reflects the fact that the GLA already has the systems in place to manage payment flows to and from billing authorities for the existing business rate retention scheme. The GLA shall also transfer any sums required to COLC based on the schedule of instalments agreed with DCLG so that COLC as Lead Authority can pay the net tariff payment payable by the Pool as approved in the Local Government Finance Settlement. COLC shall also transfer any sums it receives from DCLG in safety net payments to the GLA so that it can distribute this to eligible authorities if applicable.
- 8.3 The Lead Authority's standard responsibilities shall include but not be limited to:
- 8.3.1 all accounting for the finances of the Pool and the SIP including payments to and from the Government;
 - 8.3.2 management of the Pool's collection fund;

³ Paragraph 45 (Interpretation) of Schedule 7B defines a "relevant authority" as a billing authority in England, or a major precepting authority in England. The list of billing authorities at Schedule 5, Part 1 of the Non-domestic Rating (Rates Retention) Regulations 2013/452 includes the GLA and the London Boroughs³ as billing authorities and the GLA is also a precepting authority pursuant to section 39 (1) of the Local Government Finance Act 1992.

- 8.3.3 receiving payments from Participating Authorities and making payments to central government on behalf of Participating Authorities on time;
 - 8.3.4 maintaining a cash account on behalf of the Pool and paying interest on any credit balances;
 - 8.3.5 liaising with and completing all formal Pool returns to central government;
 - 8.3.6 administering the schedule of payments between Pool members in respect of the financial transactions that form part of the Pool's resources;
 - 8.3.7 providing the information required by Participating Authorities in preparing their annual statement of accounts in relation to the activities and resources of the Pool;
 - 8.3.8 leading on reporting to understand the Pool's position during and at the end of the financial year;
 - 8.3.9 responsibility for the net tariff payment to central government as well as the internal tariff and top up payments to the Pool Authorities;
 - 8.3.10 all audit requirements in relation to the Pool;
 - 8.3.11 production of an annual report of the Pool's activity following final allocation of funds for the year;
 - 8.3.12 the administration of the dissolution of the Pool;
 - 8.3.13 all communications with the DCLG including year-end reconciliations;
 - 8.3.14 the collation and submission of information required for planning and monitoring purposes.
- 8.4 The Lead Authority's role in relation to the SIP shall include but not be limited to:
- 8.4.1 maintenance and support of the Pool's governance arrangements and the methodology for the allocation of resources;
 - 8.4.2 assessment and preparation of reports on applications for the SIP supported by London Councils and the GLA in accordance with the agreed criteria.
- 8.5 The Lead Authority shall prepare reports with proposed recommendations as to SIP allocations and shall circulate the reports to the Participating Authorities for consultation 6 weeks in advance of Congress meetings and each Participating Authority shall 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 Lead Authority shall pay due regard to the Participating Authorities' responses and may only decide to approve any Strategic Investment Project which meets the majority decision-making arrangements detailed below at paragraph 10.4.

8.6 The Lead Authority may resign from its role on 3 months' written notice to all the Participating Authorities (or longer if required by the Government or where another Participating Authority is neither ready nor willing to assume the role of Lead Authority).

9 **Participating Authorities' responsibilities**

9.1 The Lead Authority on behalf of the Pool will need full and accurate information from the Participating Authorities in order to enable the Lead Authority to make payments to Government and to and from the Participating Authorities. Therefore, all Participating Authorities commit to providing timely information to the Lead Authority.

9.2 Each Participating Authority shall make or receive payments to or from the Lead Authority based on the schedule of payments dates referred to in paragraph 8.2.

10 **Strategic investment**

10.1 The GLA commits that the GLA's share of any net financial benefit as calculated using the formula at paragraph 6.1.2 shall be spent on strategic investment.

10.2 The combination of the GLA share and the SIP shall as a result of the formula set out in paragraph 6.1.2 make up approximately 50% of the net additional benefits arising from the Pool.

10.3 The SIP shall be spent on projects that:

10.3.1 contribute to the sustainable growth of London's economy and an increase in business rates income either directly or as a result of the wider economic benefits anticipated;

10.3.2 leverage additional investment funding from other private or public sources; and

10.3.3 have broad support across London government in accordance with the proposed governance process (see paragraph 10.4 below).

10.4 The COLC as Lead Authority shall decide which projects shall be allocated SIP funding following consultation with the GLA and the London Boroughs, reflecting decision-making

principles designed to protect Mayoral, borough and sub-regional⁴ interests, previously endorsed by Leaders and the Mayor of London. These are that:

- 10.4.1 both the GLA and the majority of the London Local Authorities shall have agreed to recommend a Strategic Investment Project for approval; and
 - 10.4.2 for these purposes the "majority" shall constitute two-thirds of the London Local Authorities save that where all Participating Authorities in a single sub-region disagree the decision shall not be deemed agreed;
 - 10.4.3 if no majority consensus on allocation of the SIP to Strategic Investment Projects can be agreed to enable the Lead Authority to make a decision then the available resources in the SIP shall be rolled forward for future consideration until the resources are spent.
- 10.5 The COLC decisions on Strategic Investment Project allocation shall be taken twice a year to ensure that reports back on Strategic Investment Project allocation decisions coincide with meetings of the Congress of Leaders and the Mayor of London.
- 10.6 Each Participating Authority agrees that it shall ensure that any Strategic Investment Project which it proposes to implement shall be within its powers as a local authority, compliant with public procurement and state aid law, the public sector equality duty and all other legal requirements and proper accounting practices.

11 **Dissolution of the Pool**

- 11.1 The Pilot is presumed to operate for 2018-19 only in respect of which the Government will make the Designation Order. Were the Pilot to continue, the Pool will be assumed to continue but any Participating Authority may give notice to leave during the operation of the Pool in accordance with paragraph 5.2 above.
- 11.2 Any Participating Authority seeking to leave the Pool should inform DCLG and all other Participating Authorities as soon as possible. In the event of one or more Participating Authorities leaving the Pool, this Pool would cease to operate at the end of 31st March of that year. Once the Pool has been established, any Participating Authority leaving the Pool must notify the other Participating Authorities by 30th September in any year, to allow the remaining Participating Authorities time to seek designation of a new pool for the following year.

⁴ London Councils' map of sub-regions is annexed at Appendix 4. For these purposes, the sub-regions are defined as the Central, West, South and Local London sub-regions as defined for devolved employment support arrangements. If in the future, boroughs wished to change the initial groupings that could be achieved by agreement of the Pool member authorities.

11.3 The Lead Authority shall make the necessary calculations and submit the required returns associated with the dissolving of the Pool and shall deal with all outstanding applications in relation to the Pool's SIP following dissolution of the Pool in accordance with paragraph 11.2 above.

11.4 In the event that the Pool is dissolved in accordance with paragraph 11.2, the Lead Authority shall distribute to the Participating Authorities any resources held on behalf of the Pool in accordance with the distribution formula set out at paragraph 6.1.2 above, subject to holding back funds required for the resolution of any outstanding appeals relating to the period of the Pool's operation.

11.5 COLC shall continue to act as Lead Authority for as long there are any outstanding Pool responsibilities.

11.6 The remaining Participating Authorities of the Pool may choose to form a new pool and, if they wish, include new members for the following year (subject to a new designation order being made by The Secretary of State for Communities and Local Government).

12 **Signatories for and on behalf of the Participating Authorities below in their official capacity**

Greater London Authority	Mayor of London.....
The Common Council of the City of London	Chairman Policy and Resources

The London Boroughs of:

Barking & Dagenham	Leader.....
Barnet	Leader.....
Bexley	Leader.....
Brent	Leader.....

Bromley	Leader.....
Camden	Leader.....
Croydon	Leader.....
Ealing	Leader.....
Enfield	Leader.....
Greenwich	Leader.....
Hackney	Mayor.....
Hammersmith & Fulham	Leader.....
Haringey	Leader.....
Harrow	Leader.....
Havering	Leader.....
Hillingdon	Leader.....
Hounslow	Leader.....
Islington	Leader.....
Kensington & Chelsea	Leader.....
Kingston upon Thames	Leader.....
Lambeth	Leader.....
Lewisham	Mayor.....
Merton	Leader.....

Newham	Mayor.....
Redbridge	Leader.....
Richmond upon Thames	Leader.....
Southwark	Leader.....
Sutton	Leader.....
Tower Hamlets	Mayor.....
Waltham Forest	Leader.....
Wandsworth	Leader.....
Westminster	Leader.....

FINAL DRAFT

Appendix 1

Draft Designation Order



Department for Communities and Local Government

Dear ----,

Further to the announcement in the Budget that the Greater London Authority, the Common Council of the City of London and the 32 London Boroughs are to pilot 100% business rates retention in 2018-19, in accordance with paragraph 34(1) of Schedule 7B to the Local Government Finance Act 1988 (the "1988 Act"), the Secretary of State herewith designates the following authorities as a pool for the purpose of the relevant provisions of the 1988 Act:

- The Greater London Authority
- The Common Council of the City of London; and

The London Boroughs of:

- Barking and Dagenham
- Barnet
- Bexley
- Brent
- Bromley
- Camden
- Croydon
- Ealing
- Enfield
- Greenwich
- Hackney
- Hammersmith and Fulham
- Haringey
- Harrow
- Havering
- Hillingdon
- Hounslow

- Islington

- Kensington and Chelsea
- Kingston upon Thames
- Lambeth
- Lewisham
- Merton
- Newham
- Redbridge
- Richmond upon Thames
- Southwark
- Sutton
- Tower Hamlets
- Waltham Forest
- Wandsworth
- Westminster

All members of the Pilot pool have agreed to this designation.

The designation has effect for the year beginning 1st April 2018 and for each subsequent year, unless revoked.

This designation is made subject to the conditions below.

1. The authorities to which this designation relates must appoint a lead authority to exercise the following functions:
 - To make and receive, on behalf of the Pilot pool members, payments in respect of any top ups and tariffs, levy and safety net and safety net on account payments to and from the Department.
 - To make and receive payments between members of the Pilot pool as determined by the governance agreements.
 - Administration (including the operation of the dissolution arrangements) of the Pilot pool, in accordance with the governance arrangements.
2. If this designation is revoked, the authorities covered by this designation must take the following step before the revocation takes effect:
 - Comply with the dissolution arrangements established in the Pilot pool's governance agreement.

Local authorities in the Pilot pool will have 28 days beginning with the date on which the draft Local Government Finance Report is published to consider if they wish to continue to be designated as a Pilot pool. Provided that no authority within the Pilot pool requests the Secretary of State to make a revocation during that period, the Pilot pool will come into effect on 1 April 2018, meaning that all local authorities covered by the designation will remain in the Pilot pool for the full financial year.

If a member of the Pilot pool decides it no longer wishes to be designated as part of a Pilot pool for 2018-19 it must notify DCLG using the e-mail address in the following paragraph. If a local authority

exercises this option to request revocation of the designation before the date of publication of the Provisional Local Government Finance Settlement 2018-19, the rest of the Pilot pool cannot continue. The Secretary of State will then revoke this designation and the local authorities identified as part of this Pilot pool will revert to being considered as individual authorities for the purposes of the business rates retention scheme.

As a consequence of the designation of the London Boroughs of Barking and Dagenham, Croydon and Havering in the above Pool, in accordance with paragraph 34(3) of Schedule 7B to the Local Government Finance Act 1988, the Secretary of State herewith revokes the designations under which, the London Boroughs of Barking and Dagenham, and Havering were part of the South Essex/East London Business Rates Pool and the London Borough of Croydon was part of the Surrey-Croydon Business rates Pool. Accordingly, the following pools will cease to exist from the end of the current financial year.

South Essex / East London Business Rates Pool

- Thurrock
- Basildon
- Havering
- Barking and Dagenham

Surrey – Croydon Pool Business Rates Pool

- Surrey
- Spelthorne
- Elmbridge
- Croydon
- Guildford
- Mole Valley
- Surrey Heath

If there are any questions about the content of this letter and the enclosed designation please contact Mark Barnett on 0303 444 4217 or at Mark.Barnett@Communities.gsi.gov.uk, as soon as possible.

Signed by authority of the Secretary of State for Communities and Local Government:

Alex Skinner

A member of the Senior Civil Service in the Department for Communities and Local Government

-- December 2017

Appendix 2
London Boroughs

Barking & Dagenham

Barnet

Bexley

Brent

Bromley

Camden

Croydon

Ealing

Enfield

Greenwich

Hackney

Hammersmith & Fulham

Haringey

Harrow

Havering

Hillingdon

Hounslow

Islington

Kensington & Chelsea

Kingston upon Thames

Lambeth

Lewisham

Merton

Newham

Redbridge

Richmond upon Thames

Southwark

Sutton

Tower Hamlets

Waltham Forest

Wandsworth

Westminster

FINAL DRAFT

Appendix 3

Notional RSG

The amount of former notional revenue support grant to each constituent authority to be "rolled-in" to 100% rates retention for 2018/19 shall be:

Former RSG Amount	Amount (£m) for 2018/19
Barking & Dagenham	23.3
Barnet	14.9
Bexley	8.5
Brent	33.7
Bromley	4.3
Camden	31.9
City of London	7.5
Croydon	23.3
Ealing	26.2
Enfield	25.7
Greenwich	33.3
Hackney	45.0
Hammersmith & Fulham	23.4
Haringey	30.2
Harrow	7.3
Havering	6.8
Hillingdon	13.1
Hounslow	15.7
Islington	32.6
Kensington & Chelsea	16.3

Kingston upon Thames	1.5
Lambeth	42.8
Lewisham	36.9
Merton	10.1
Newham	46.4
Redbridge	16.8
Richmond upon Thames	0.0
Southwark	47.0
Sutton	11.8
Tower Hamlets	43.8
Waltham Forest	26.1
Wandsworth	30.2
Westminster	38.1

Appendix 4

Illustrative sub-regional groupings for the purposes of the "sub-regional veto" in respect of Strategic Investment Pot decisions

