

Report for: Leader of the Council

Title: London Business Rates Retention Pool 2020-21

Report authorised by: Jon Warlow, Director of Finance

Lead Officer: Frances Palopoli, Head of Corporate Financial Strategy & Monitoring

Ward(s) affected: All

Report for Key/ Non Key Decision: Key

1. Describe the issue under consideration

This report proposes that Haringey join the GLA and all London boroughs to form a pool of retained business rates from 1st April 2020.

2. Cabinet Member Introduction

Haringey has participated in the London Pilot Pool for the last two years and has benefited financially both from retaining more business rates income but also from three successful projects funded via the Strategic Investment Pot (SIP) which was an agreed feature of the Pilot Pool.

It is disappointing that Government decided not to continue with the London Pilot Pool beyond March 2020 however, it is still beneficial financially for London to Pool business rates from April 2020. The Queens speech restated the Government's commitment to a review of the business rates system and I believe that, by continuing to work collaboratively across London, we will have a stronger voice to influence the outcome of this review.

3. Recommendations

It is recommended that Haringey participates in the London-wide Business Rates Retention Pool for 2020/21 and:

- a) To accept the designation of the London Borough of Haringey by the Secretary of State as an authority within the London Business Rates Pool pursuant to paragraph 34(2) of Schedule 7B Local Government Finance Act 1988 in line with the Memorandum of Understanding at Appendix 1;
- b) agree that the London Borough of Haringey participate in the London Business Rates Pool for the 2020/2021 financial year;
- c) delegate the authority's administrative functions as a billing authority pursuant to the Non-Domestic Rating (Rates Retention) Regulations

2013 to the City of London Corporation (“CoLC”) acting as the Lead Authority these functions to remain delegated to the City of the Corporation of London for subsequent financial years that the London Borough of Haringey decide to participate in the London Business Rates Pool;

- d) authorise the Lead Authority to sub-contract certain ancillary administrative functions (regarding the financial transactions) within the Pool to the GLA as it considers expedient;
- e) delegate authority to the Chief Financial Officer, in consultation with the Cabinet Member for Finance & Strategic Regeneration, to agree the operational details of the pooling arrangements with the participating authorities;
- f) enter into such Memorandum of Understanding (MoU) with the participating authorities to implement and/or regulate the pool and delegate authority to the Chief Financial Officer (in consultation with the Assistant Director Corporate Governance) to negotiate, finalise and execute the same on behalf of the authority for 2020/2021 at Appendix 1 and for any subsequent years any Memorandum of Understanding is required;
- g) authorise the Leader of the Council to represent the authority in relation to consultations regarding the London Business Rates Pool as may be undertaken by the Lead Authority pursuant to the Memorandum of Understanding;
- h) delegate to the Chief Financial Officer the authority to consider such consultative reports as the Lead Authority may circulate and to respond on behalf of the authority with regard to any recommendations.

4. Reasons for decision

The Government designated a pan-London business rates pool in 2018-19, which piloted 100% retention in that year, and was revised to pilot 75% retention in 2019-20. It confirmed in September 2019 its intention not to renew the London pilot in 2020-21, and for London to revert back to the pre-existing 2017-18 67% retention scheme (which was a partial pilot, reflecting the incremental impact of the rolling in of the Greater London Authority’s (GLA) Revenue Support Grant (RSG) and the Transport for London investment grant).

Although this decision by Government means that the **pilot** ceases, under the original business rates retention legislation, groups of authorities can form pools where they deem that there is a financial benefit.

Analysis undertaken by London Councils suggests that by working together and forming a pool, London authorities can retain a greater proportion of business rates growth within London, providing additional resources to support local communities and strengthen financial resilience following a decade of significant funding reductions.

There are also deemed strategic and operational benefits from continuing with pooling business rates across London. The pilot pool was seen as a platform from which to develop further arguments about London Government genuinely retaining 100% of the business rates it collects, while providing an important step towards broader fiscal devolution ambitions, in line with the recommendations of the London Finance Commission in 2013 and 2017. Maintaining a collaborative arrangement for a further year would likely give London Government a more influential voice with regard to the eventual design of the full 75% scheme, now due to be implemented in 2021-22.

The current pilot has provided a platform for greater openness and sharing of information about assumptions regarding those elements of the National Non-Domestic Rates (NNDR) process that authorities have more judgement over. It has enabled stakeholders to improve their technical understanding of how the system works and has raised the level of awareness amongst both members and officers of the key drivers of business rate growth, the importance of accurate forecasting, and the impact that appeals judgements have on the system.

5. Alternative options considered

The alternative option would be to formally opt out of participating in the pool however, Haringey would forego the estimated financial benefit of £0.4m-£0.5m in 2020/21 as well as the non-financial benefits of participating. It is therefore considered that this is not a viable option.

6. Background information

- 6.1 Haringey's participation in the current business rates retention pool pilot provided additional resources of £6.4m in 2018/19 and a further estimated £2.7m in 2019/20. The pool pilot scheme agreed in London also included the creation of a Strategic Investment Pot (SIP), created by top-slicing 15% of the overall financial benefit. All participating authorities could, individually or by joining up, bid for resources to fund schemes designed to promote economic growth and sustainably increase the business rates base in the London region.
- 6.2 The Government's decision to cease the **pilot** in London reduces the financial benefits of continuing as a **pool**. Firstly, there would be less growth retention (67% versus 75% under the current scheme) and secondly, there would be a lower saving on levy payments, as the pool would pay a levy on growth (as all tariff areas would normally do). The financial benefit comes from the pool *overall* paying less in levy than the London tariff authorities would have paid individually.
- 6.3 Modelling undertaken by London Council's suggests a non-pilot pool of all London authorities including the GLA would produce a net financial benefit of approximately £25.4 million in 2020/21. This arises from the pool only paying a levy of £92.9 million on growth of 9% above baselines level, compared to individual payments totalling £118.3 million across the tariff authorities in the pool.

- 6.4 Given the comparatively small scale of financial benefit forecast compared to the existing scheme, the Leader's executive agreed to cease operating a SIP as the value was felt too low to support genuinely strategic investment.
- 6.5 Therefore the proposed operation of the Pool from 01/04/2020 will be:-
- Where there is sufficient retained income in the pool to guarantee it, each of the Participating Authorities shall receive at least as much from the Pool as they would have individually under the non-pooled 67% retention scheme;
 - The distribution of net additional benefit through growth in business rates collected in London arising from the pooling arrangement will be allocated to Billing Authorities on the basis of the following proportions:
 - 18% to incentivise growth by allowing the Billing Authorities where growth occurs to keep a proportion of the additional resources retained as a result of the Pool;
 - 41% to reflect each Billing Authority's share of the total the Settlement Funding Assessment for the London Billing Authorities;
 - 41% according to each Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution; and
 - The GLA will be included in the 2020-21 pool however, the GLA shall not receive any of the financial benefit arising from pooling, as agreed by London Councils Leaders' Committee and the Mayor of London in October 2019.

Risks

- 6.6 Under a Pooling arrangement, all authorities share both the benefits but also the risks. The benefits arise from collectively paying less levy back to Government, and then sharing this benefit as agreed by the pool.
- 6.7 However, in theory, it is possible that one or more authority's business rates could decline to such an extent that it creates a net financial deficit in which the pool as a whole would collectively be worse off than the individual boroughs would have been in aggregate had the pool not existed.
- 6.8 Modelling suggests that this is very unlikely i.e. it would require a fall in overall rates of around 4.8% (around £400m). This is in the context of annual real terms growth of >2% over the last 6 years. More granular analysis based on the tariff authorities (those that generate a levy payment) has also been explored, which also confirms that the risk is low.
- 6.9 In the event of the Pool being in a worse position than the aggregate position had participating authorities not agreed to pool, any authority who would have qualified for a safety net payment had they not been part of the pool will be guaranteed to retain a level of business rates equal to their safety net level as calculated by government. The remaining net financial deficit will be shared among all Participating Authorities, with the GLA funding 36% and those remaining boroughs not receiving safety net payments funding the remaining 64%. The distribution will reflect the following proportions:

- 50% according each remaining Billing Authority's share of the total the Settlement Funding Assessment for the remaining Billing Authorities not receiving safety net payments;
- 50% according to each Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution.

Operation of the Pool

- 6.10 The City of London Corporation (COLC) shall continue to act as the accountable body to Government and administer the Pool.
- 6.11 The GLA shall continue to 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.
- 6.12 A Memorandum of Understanding (MOU) between participating authorities sets out the terms by which the pool will operate and distribute any financial benefits(Appendix 1).

Dissolution of the Pool

- 6.13 The pool is presumed to continue to operate for 2020-21 only in respect of which the Government Designation Order continues in force. These Designation Orders are made and remain in force until revoked.
- 6.14 Any Participating Authority seeking to leave the Pool should inform MHCLG 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 and the Pool would be dissolved in accordance with the provisions of this MOU.
- 6.15 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.

7. Contribution to strategic outcomes

Acceptance of the proposed recommendation will support delivery of the following outcomes:

- A growing economy which provides opportunities for all our residents and supports our businesses to thrive
- We will be a council that uses its resources in a sustainable way to prioritise the needs of the most vulnerable residents

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

There are some minimal costs associated with running and managing the Pool which have been estimated at between £2,000 and £3,000 per year for each authority. This will be topsliced from the forecast benefit (£0.4m) of participating in the scheme.

Although the change from a Pilot Pool to a Pool removes the assurance that no Authority would be worse off from participating, as described above in the Risks section, the likelihood of this happening is judged to be very low. Furthermore, the fact that the expected financial benefit is significantly less than under the Pilot Pool at only £0.4m, the impact of any under delivery is also significantly less material.

As exists under the current Pilot Pool scheme, the actual benefit realised by each authority is a product of the performance of all participating authorities and therefore the estimated benefit figure of £0.4m will not be confirmed until after the year closes. The monitoring of performance across the existing Pilot Pool has become increasingly refined since it's inception and the City of London provide forecasts during the year which will highlight, in a timely fashion, if the estimated benefit looks to be significantly over or under forecast. This will enable Haringey to actively manage any highlighted variance, thereby reducing the risk.

Procurement

There were no procurement implications.

Legal

The 32 London Boroughs and the Corporation of London are the billing authorities for non-domestic rates under the Local Government Finance Act 1988.

The Secretary of State has the power under paragraph 34 of Schedule 7B of the Local Government Finance Act 1988 to designate two or more "relevant authorities" as a pool of authorities. Relevant authorities is defined as a billing authority in England, or a major precepting authority in England (paragraph 45 of Schedule 7B). Schedule 5, Part 1 of the Non-domestic Rating (Rates Retention) Regulations 2013 lists the London Boroughs and the City of London Corporation as billing authorities.

Under paragraph 34 (2) of Schedule 7B, the Secretary of State may make a designation of a pool of authorities only if each authority covered by the designation has agreed to it.

Under section 111 of the Local Government Act 1972, the Council has power to do anything calculated to facilitate, or conducive or incidental to, the exercise of any of the Council's functions. This power is subject to the limitation that the Council may not raise money except in accordance with legislation relating to those matters. In the present case any money to be raised is to be raised in accordance with the relevant legislation. The Business Rates pool is designed

to achieve a better level of business rates income for the Council and is therefore compliant with this power.

The Council has power to enter into arrangements with billing authorities for the purposes of fulfilling the requirements of Schedule 7B for obtaining an order of the Secretary of State authorising the establishment of a business rates pool. The Memorandum of Understanding which it is proposed will be signed by the Director of Finance provides the mechanism by which these arrangements will operate. In order for the Council to participate in the pool it is necessary for the Council to formally approve this proposal and to accept the Secretary of State's designation.

Under paragraph 35 of Schedule 7B, designation of a pool of authorities requires the appointment of a Lead Authority. The City of London Corporation will perform this role and in order for this to happen. The Council needs to delegate its administrative functions as a billing authority pursuant to the Non-Domestic Rating (Rates Retention) Regulations 2013 to the City of London Corporation.

Under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 the Council may arrange for the discharge of its executive functions by another local authority or an executive of another local authority. The 2012 Regulations specify the persons with power to make the arrangements. Article 10.04 Part 2 of the Council's Constitution states that the Leader, or the Cabinet with the Leader's agreement, may delegate the Council's executive functions to another Local Authority.

Equality

The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

The report proposes that Haringey join the GLA and all London boroughs to form a pool of retained business rates from 1st April 2020.

By working together, local authorities will be able to retain a greater proportion of business rates growth. This will help to provide additional resources to support local communities and strengthen the councils financial resilience.

The proposal to join a pool of retained business rates is not expected to have a disproportionate impact on any group with a protected characteristic. Should this change an Equalities Screening Tool and Assessment will be considered.

9. Use of Appendices

Appendix 1 – Memorandum of Understanding (MoU) on the London 67% business rates retention pool 2020/21

10. Local Government (Access to Information) Act 1985

London Business Rates Retention Pilot – 2018/19 (16/01/2019)

<http://www.minutes.haringey.gov.uk/documents/s98769/London%20Business%20Rates%20Retention%20Pilot%20Dec2017%20ver1.4%20FINAL.pdf>