Report for:	Cabinet 16 January 2018
Title:	London Business Rates Retention Pilot - 2018/19
Report authorised by :	Clive Heaphy, Chief Financial Officer (interim)
Lead Officer:	Frances Palopoli, Head of Finance Operations, extn 3896
Ward(s) affected:	All
Report for Key/ Non Key Decision:	Key

1. Describe the issue under consideration

Participation by the London Borough of Haringey in the London-wide Business Rates Retention Pilot for the financial year 2018/19. This is by agreement with all London Boroughs and approved through the Autumn statement.

2. Cabinet Member Introduction

Cabinet Member for Finance & Health

Local Government Finance is highly complex and remains largely under the control of Central Government.

Business Rates (National Non-Domestic Rates or NNDR) are currently administered and collected by local Government on behalf of Central Government and the proceeds are returned to Government in return for a re-disribution in the form of Revenue Support Grant (RSG).

The move away from RSG and towards local area retaining the Business Rates that are collected begins to make local government accountable to the Business community but also puts control back into the local area in the form of pools.

The London Pilot Pool is a joint and unanimously agreed one year pilot between the 32 Boroughs, the Corporation of London and the GLA and is on the basis that no authority will be worse off than under the current system.

By balancing the distribution of funds between needs, growth and strategic objectives, the pilot incentivises authorities to consider how best to grow their borough relative to other, bring about a new relationship between the Boroughs and their business community and develop commercial models aimed at growth.

This creates considerable opportunity for Haringey to exploit its natural benefits of geography, transportation and infrastructure but also focusses us on the need to creat confident, cohesive communities, well educated and skilled to take advantage of those opportunities.

3. Recommendations

It is recommended that Haringey participates in the London-wide Business Rates Retention Pilot for 2018/19. Cabinet are asked to agree the following recommendations and notify Full Council at its meeting on 26 February 2018:

a) the designation of the London Borough of Haringey by the Secretary of State as an authority within the London Business Rates Pilot Pool pursuant to paragraph 34(7) of Schedule 7B Local Government Finance Act 1988 and to;

b) agree that the London Borough of Haringey participate in the London Business Rates Pilot Pool with effect from 1 April 2018 (to 31 March 2019);

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;

d) authorise the Lead Authority to sub-contract certain ancillary administrative functions (regarding the financial transactions (payment of tariffs and top-ups) 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 & Health, 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;

g) authorise the Leader of the Council to represent the authority in relation to consultations regarding the London Business Rates Pilot 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 and in particular, proposals for projects to be approved for funding from the Strategic Investment Pot;

i) delegate to the Lead Authority the functions of assessment, due consultation and the approval of projects eligible for funding from the Pool's Strategic Investment Pot following consultation with the participating authorities (provided that at least two thirds of such participating London Boroughs (including the city of London Corporation) and the Mayor of London are in favour of the relevant recommendation, and that no entire sub-region is in disagreement with the decision on such terms and conditions as shall ensure value for money and compliance with the law.

4. Reasons for decision

The underlying drive to create a pool is to generate a net financial benefit for London which is not available under the current individual authority scheme.

As outlined in section 6 below, joining the Pilot for 2018/19 offers the potential to generate addition Business Rates income to Haringey above the level forecast if Haringey continued to operate as a single authority. It also offers Haringey the chance to propose strategic investment bids which would be funded from a top slice of any net benefit achieved across the whole pool. A clear guarantee on entry is that no Borough will suffer financial detriment as a result of participation in the Pool.

Furthermore, as a consequence of the establishment of the Pool, central Government will commit to exploring other funding changes which could be beneficial to Haringey and London as a whole.

5. Alternative options considered

The alternative option would be to formally opt out of participating in the pilot meaning that the pan-London pilot would not go ahead as it requires all Boroughs listed in the agreement to participate.

As part of Central Government consultation on 100% business rates retention earlier in 2017, Haringey expressed a preference for the creation of a pilot scheme for London and would not consider opting out unless the proposed operation appeared detrimental to Haringey; this is not the case.

6. Background information

6.1 As part of Central Government consultation on 100% business rates retention earlier in 2017, Haringey joined with London Councils, the GLA and other London authorities in expressing a view to Central Government in favour of the creation of a pilot scheme for London.

Proposals for establishing the pan-London Pilot Pool for 2018/19 were circulated to Leaders of all Boroughs in July and September 2017. This was discussed at the Leaders' Committee and Congress of Leaders and the Mayor on 10 October 2017 where it was agreed in principle to pool business rates in a London pilot of 100% retention in 2018/19 and commence discussions with Government on that basis.

Government formally confirmed its commitment to establishing a 100% business rate retention pilot in London in April 2018 in the Autumn Statement. This was agreed by a memorandum of understanding (MOU) signed by the

Chair of London Councils, the Mayor of London, the Minister for London and the Secretary of State for Communities and Local Government (Appendix 1)

6.2 Rationale for Pooling Business Rates

The underlying drive to create a pool is to generate a net financial benefit for London which is not available under the current individual authority scheme.

This is because:

- pooling consists of retaining 100% of growth (rather than 67% across London under the current scheme) *and*
- not paying a levy on that growth (which tariff authorities and tariff pools currently pay).

Therefore, any aggregate growth in the pool overall – because of the increased retention level – would generate additional resources to share, with each pooling member to benefit to some extent.

The net financial benefit to London of participating in the pool in 2018/19 is currently estimated to be in the region of £240 million, based on London Councils' modelling using boroughs' own forecasts. A more accurate forecast will be expected in February 2018 following the completion of individual forecasts for 2018/19.

The Pooling MOU constitutes the framework agreement for how any **net financial benefit** will be distributed. The principles driving this are based on the following four objectives agreed by Leaders and the Mayor with relative share (%) of the total:

Incentivising growth (by allowing those boroughs where growth occurs to keep some proportion of the additional resources retained as a result of the pool)	**15%**
Recognising the contribution of all boroughs (through a per capita allocation)	**35%**
Recognising need (through the needs assessment formula)	**35%**
Facilitating collective investment through a **Strategic Investment Pot (SIP)** designed to promote economic growth and lever additional investment funding from other sources	**15%**
Total	**100%**

6.3 Pooling Principles

The key principles that underpin the London pooling agreement are that:

- The 2018/19 pool would not bind boroughs or the Mayor indefinitely – the founding agreement includes notice provisions for authorities to withdraw provided notice is given by any one Borough or the Mayor by 30 September in the preceding year;

- No authority can be worse off as a result of participating;
- All members will receive some share of any net benefits arising from the pilot pool – recognising that growing London's economy is a collective endeavour in which all boroughs make some contribution to the success of the whole, all members of the pool will receive at least some financial benefit, were the pool to generate additional resources.

Furthermore, London authorities will 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 existing "67% scheme" in place for individual authorities in 2017/18.

Nor will any "new burdens" be transferred to London as a consequence of joining the Pilot and participation in the pilot will not affect the development or implementation of the Fair Funding Review.

6.4 Operation of the Pool

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 Corporation (CoLC)** 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.

In the case of the London pilot pool, the lead authority will have an additional role in formally taking decisions over the allocation of the Strategic Investment Pot (SIP) following consultation with all participating authorities.

Strategic investment is defined as projects that will contribute to the sustainable growth of London's economy which lead to an increase in London's overall business rate income and must meet each of the following requirements:

- 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;
- leverage additional investment funding from other private or public sources; and
- have broad support across London government in accordance with the proposed governance process.

Under a delegation arrangement, the GLA will manage treasury management issues and monetary transfers between billing authorities on behalf of the lead authority. This reflects the fact that the GLA already has the systems in place to manage payment flows to and from billing authorities for business rates retention as well as council tax and the BRS. They will also manage the Pool's collection fund.

A Memorandum of Understanding (MOU) between participating authorities will set out the terms by which the pool will operate and distribute any financial benefits.(Appendix 2)

6.5 **Impact on Funding Streams**

Joining the London Pool Pilot will mean that Haringey will retain 100% of its' non-domestic rate income and associated section 31 grants in respect of Government changes to the business rates system.

However, DCLG will no longer pay Revenue Support Grant in 2018/19 (£30.2m for Haringey) as this will be rolled into the 100% rates retention.

This is a significant change to the funding mechanism but DCLG has confirmed that the pilot approach should be **without detriment** to the resources that would have been available collectively to the 34 London authorities (including the City of London corporation and the GLA) under the current local government finance regime over the four year settlement period.

Furthermore, subject to the evaluation of the pilot, it also commits the Government to working with London authorities to explore the following:

- future options for grants including, but not limited to, Public Health Grant and the Improved Better Care Fund
- the potential for transferring business properties on the central rating list in London to the local rating list where appropriate
- and legislative changes needed to develop a Joint Committee model for future governance of a London pool.

6.6 Dissolution of the London Business Rates Retention Pool Pilot (2018-19)

The pilot is currently presumed to operate for 2018/19 only. Were the pilot to continue, it would do so until 31 March 2020 (when it is expected that funding baselines will be updated as a result of the Fair Funding Review) unless otherwise agreed by all participating authorities or unless any participating authority choses to leave the Pool. If the latter occurred, the Pool would cease to operate on 31 March of that year. Once the pool has been established, authorities opting out of the pool **must** notify the Lead Authority and all other participating authorities by 30th September in any year.

7. Contribution to strategic outcomes

With the potential for generating additional income, this proposal will support the delivery of all of the council's priorities however, it is probably most directly aligned to:

- Driving growth and employment from which everyone can benefit *and*
- Creating homes and communities where people choose to live and are able to thrive

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

Finance

There are some costs associated with running and managing the Pool which appear limited to 1 FTE Senior Accountant post within the GLA with considerable experience and understanding of collection fund accounting and the business rates retention scheme and a secretariat within the CoLC to administer the pool and assist with assessing applications for SIP.
It is unclear how these costs will be met by participating Borough but it will most likely be a direct charge on the Collection Fund before distribution.

The pilot provides sufficient assurances that Haringey will not be at risk of a worse financial position than if it opts to remain outside the Pool. It does however, offer an opportunity to benefit from increased income as well potential investment via the SIP.

As business rate income is accounted for via the Collection Fund, a separate pooled collection fund would be required to be established and would sit with the lead authority, although managed by the GLA under delegation. This will require careful management particularly around the treatment of surpluses, deficits and appeals provisions to ensure that the benefits or costs as a result of any actions undertaken **before** joining the pool will remain with that authority.

It will only be after financial year end, once accounts are drawn up, that the actual outturn position is known and when reconciliations will be made and the final growth/decline for the pool as a whole, and for individual pool members, determined. This is likely to be in September 2019 after accounts have been audited for the financial year 2018/19.

Therefore, budgetary assumptions built into the setting of the 2018/19 budget carry a degree of risk and given the uncertainty around the value of any potential growth as part of the pool, it is for each authority to determine how to treat 100% business rate retention in their Medium Term Financial Plans.

Procurement

There are no Procurement implications in this activity. Procurement has no objections to this.

Legal

Paragraph 34 of Schedule 7B of the Local Government Finance Act 1988 (as amended by the Local Government Finance Act 2012) ("The 1988 Act as amended") enables the Secretary of State to designate two or more billing authorities as a business rates pool of authorities.

A designation may not be made by the Secretary of State unless each authority covered by the designation agrees to it. Therefore each authority is required to pass a resolution to participate in the pool and accept the Secretary of State's designation of the pool. Once made, a designation continues to have effect until it is revoked by the Secretary of State. The Secretary of State must revoke the Designation if requested to do so by one of the authorities in the pool.

Schedule 7B, part 9 of The 1988 Act as amended, sets out certain conditions and requirements with regard to the designation and administration of the pool, including the requirement for one of the authorities to be appointed as the Lead Authority for the pool. It is recommended that the Council's administrative functions in respect of its powers as billing authority pursuant to the Non-Domestic Rating (Rates Retention) Regulations 2013 is delegated to CoLC acting as the lead authority for the pool. The Council has power to delegate this function pursuant to Section 9EA(1) of the Local Government Act 2000.

An agreement between participating authorities will document the governance and administrative arrangements for the operation of the business rates pool. A non- legally binding Memorandum of Understanding (MOU) will be entered into by participating authorities. The Council has power to establish a business pooling arrangement between participating authorities under The 1988 Act as amended. In addition section 111 of the Local Government Act 1972 gives the Council the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The establishment of the pool will involve the Council being consulted and also responding to the proposed allocation of the Strategic Investment Pot by the CoLC.

The recommendations set out this report are in accordance with the powers available to the Council to participate in the London Business Rates pool.

Equality

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

- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- 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.

An EqIA Screening Tool has been completed, which has determined that a full EqIA is not required, as the proposal is not expected to have a disproportionate impact on any protected groups.

9. Use of Appendices

Appendix 1 – Memorandum of Understanding (MoU) on the London 100% business rates retention pilot 2018/19;

Appendix 2 – Final Draft Memorandum of Understanding – all participants to sign

10. Local Government (Access to Information) Act 1985

n/a