City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Finance, Property and Regeneration
Date:	14 January 2020
Classification:	General Release
Title:	London Business Rates Pooling
Wards Affected:	All
Policy Context:	City for All
Key Decision:	Yes
Financial Summary:	The government has scrapped the business rates pilot pool for 2020/21. London Boroughs will revert to the business rate shares as determined in 2017/18. However, councils in London can pool business using these shares and reduce the levy they pay to central government. Therefore, councils in London will receive the income they would have received individually as well as the additional gain from retaining the growth locally and by reducing the levy paid to government. Provisional assumptions indicate that the pool will gain approx. £25m and Westminster City Council's share will be £0.6m.
Report of:	Gerald Almeroth, the Executive Director of Finance and Resources

1. Executive Summary

1.1 The Council is part of the London Business Rates Pilot Pool originally set up in 2018/19 for an initial two years. Central government were encouraging groups of authorities to pool ahead of the expected full devolution of business rates from 2020/21.

1.2 In the first year of the 2018-19 pilot pool, London authorities (including the Greater London Authority) retained 100% of the business rates and any growth above the baseline. However, the actual business rates councils retained was dependent on their pre calculated baseline (adjusted via a top-up or tariff) plus any growth. In the second year (2019/20) the government amended the local share to 75% as seen in the table below. In the recent 2019 Spending Round the government announced that other than the established Combined Authorities all sponsored pilots would end and revert to the original business rates system of distribution. Therefore, councils will return to the business rates shares as at 2017-18, see table below.

	2016/17	2017/18	2018/19	2019/20	2020/21
London Boroughs	30%	30%	64%	48%	30%
GLA	20%	37%	36%	27%	37%
Local Share	50%	67%	100%	75%	67%

Local Share	50%	67%	100%	75%	67%
Central Government	50%	33%	0%	25%	33%
Total	100%	100%	100%	100%	100%

1.3 In 2020/21 London Borough Councils will retain 30% and Greater London Authority (GLA) will retain 37% share of the business rates whether the pool is agreed or not, hence referred to as the 67% local share scheme. The current system is normally referred to as the 50% scheme business because local authorities would retain 50% of business rates. However, London is a special case because government agreed for GLA's share of business rates to increase from 20% to 37%, to allow the GLA to take on responsibility for funding TfL's investment grant, resulting in a 67% scheme.

1.4 However, as permitted since the introduction of the 50% business rates retention scheme nationally in 2013/14, councils have the option to pool business rates and reduce the levy paid to central government, hence retaining more growth locally.

1.5 Any pool is voluntary and would need to include all London authorities otherwise it would not proceed. All Councils in London have agreed in principle to be part of the new business rates pool for 2020/21 and will have until 16 January 2020 to formalise this in accordance with their local decision-making process.

1.6 This report looks at the business rates pooling option in 2020/21 and assesses the benefits and risks to Westminster City Council (WCC).

1.7 The latest distribution model for business rates means that London has the potential to retain £25m of business rates growth, which is significantly less than in the previous two years. The proposal is for this to be distributed amongst the London boroughs, of which Westminster would receive an estimated £0.6m. However, all forecasts are subject to change following updated data.

1.8 The business rates pilot for 2019/20 was approved by Cabinet on 25 February 2019 and endorsed by Full Council on 6 March 2019. The business rates pool for 2020/21 is now different to the business rates pilot pool offered in the past. The council will revert to the 67% scheme (WCC 30%, GLA 37%) and a safety-net threshold of 92.5% will be applied to reduce the risk of potential loss to councils. Considering these changes, it is necessary to review the new offer and seek Cabinet Member approval.

2. Recommendations

2.1 That the Cabinet Member for Finance, Property and Regeneration approves the Council's formal commitment to be a member of the London-wide business rates Pooling arrangement (with distributions of any surplus as set out in the Pooling Memorandum of Understanding) for 2020/21 under the powers contained within the Constitution to determine policy in respect of business rates.

2.2 The Council's Section 151 officer is given delegated authority to agree the operational details of the pooling arrangements with the participating authorities and to enter the Pooling Memorandum of Understanding.

3. Reasons for Decision

3.1 The offer for London to enter a Pooling arrangement, as contained in the Provisional Local Government Finance Settlement, requires each London Borough and the GLA to review and notify the Ministry of Housing, Communities and Local Government (MHCLG) by 16 January 2020 if it decides to withdraw from the pool.

4. Background, including benefits and risks of being part of a pooling

4.1 Even though the pilot scheme will be scrapped, councils will have the option to pool business rates under a standard model. The pool normally reduces the levy paid across to central government and ensures that the retained growth above the business rates baseline stays within local government. It does this by amalgamating tariff authorities with top-up authorities to limit the overall levy exposure.

4.2 Currently Tariff Authorities (such as Westminster) pay a levy on any growth above the business rates baseline, whilst Top Up Authorities (such as Islington) pay no levy on

business rates growth above the baseline. A mix of Tariff and Top-Up Authorities within a London pool reduces the levy rate.

4.3 By including GLA, City of London Corporation and all London boroughs in the business rates pool, the levy rate is calculated at 19%.

4.4 Normally the council will pay a levy rate of 50% if it decided not to be part of the London pool in 2020/21. However, if it decides to be part of the pool, the levy rate for the business rates pool will be calculated at 19% which ensures that a larger share of the business rates growth above the baseline is kept within Local Government and shared across all London Councils. However, the gain from the business rates pool in 2020/21 is expected to be significantly less compared to the gain London Boroughs obtained in the business rates pilots. The distribution method from the pool, for the forecasted gain of £25m, will be as follows compared to previous years.

Business Rates Scheme	100%	75%	67%
£m	Actual	Forecast	Forecast
	2018/19	2019/20	2020-21
Pilot / Pool Gain	397.0	181.0	25.4

Analysis undertaken by London Councils suggests that an estimated £25m for 2020/21 which would otherwise have to be paid as a net Levy on overall surpluses over Baseline Funding levels would be retained by the 33 London boroughs and the GLA if it were to operate as a Pool in 2020/21.

4.5 Society of London Treasurers (SLT) have committed in principle to proceed with the London Business Rate pool for 2020/21 and the basis of distribution for any surplus, which would be similar in terms of 2019/20 distribution of growth and management of the pool.

4.6 Similar to 2019/20 the agreed pooling arrangements allow for the 2020/21 surplus (which would otherwise have been paid to MHCLG as an overall London net Levy) distributed across London boroughs on the following basis which is a slight change from previous years because the pool agreed to scrap the Strategic Investment Pot (SIP) as it was too small and not worth continuing in 2020/21;

- 18% - Growth Reward (for those generating above-Baseline surpluses)
- 41% - Population
- 41% - Need (based on Settlement Funding Assessment)

4.7 Based on the final distribution methodology outlined above and the potential forecast gain of £25m, the Council could expect to receive an additional £0.6m which it would otherwise not have had without such a pooling arrangement. As well as the direct gain to Westminster the council would continue to work in collaboration with councils in London.

4.8 As part of the Pooling agreement with MHCLG, and contained within the Pooling Memorandum, the pool will still stick to the principles of no-detriment to ensure that no borough will receive less in retained business rate funding than they would otherwise have retained had a pool not existed. For London as a whole, an overall Safety Net threshold of 92.5% would also apply as a result of entering pilot pooling status however based on the latest forecast this is not likely to be relevant.

4.9 The council is very unlikely to have a worse scenario by being in the pool.

Given the current position (9% above baseline), there would need to be a significant downturn for the pool not to be able to ensure that any one borough was not worse off than it would otherwise be. Modelling suggests that a reduction across the pool of 4.4% compared with the current forecast would have to occur across the pool (a fall in gross rates of over £300m) for this to be the case. In the context of annual real terms growth of over 2% per annum since 2013-14, this is very unlikely
(London Councils)

4.10 In the event of the Pool being in a worse position than the aggregate position had Participating Authorities not agreed to pool the following will apply:

1. Councils will first be guaranteed to have at least their Safety Net position

2. 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

(a) 50% according to each remaining Billing Authority's share of the total the Settlement Funding Assessment for the remaining Billing Authorities not receiving safety net payments;

(b) 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.

4.11 Whilst London Councils have provided a forecast gain for London of £25m, this remains subject to some degree of risk. A final projected surplus for 2020/21 will not be known until all boroughs have calculated and submitted their 2020/21 official NNDR1 returns – something that will not occur until the end of January 2020. Beyond that, future outcomes of appeals may well cause the final 2020/21 outturn to continue to be adjusted over several years. The actual benefit of the pool will not be determined until 2020/21 NNDR3s are completed by all London Councils.

5. Benefits of being in the 2020/21 London Pool

5.1 The pool will pay a levy rate of 19% compared to Westminster paying 50% if it goes alone, in effect the difference of 31% gained by Westminster will be kept in the pool

rather than paid over to central government and distributed between all London Boroughs.

5.2 The growth produced by the pool will be reaped by all councils in London

5.3 The principle distribution mechanism will ensure that councils will receive what they would have received outside the pool plus the share of the growth from the pool

5.4 Based on the latest forecast produced by London Councils the pool can retain approx. £25.4m and Westminster council's share of that gain will be approx. £0.6m

5.5 By becoming part of the pool, councils can spread the risk collectively as it is less likely that the entire pool will see rates decline than an individual council

5.6 There would be strategic benefits in continuing to pool business rates. As highlighted in the London Council paper, "maintaining a collaborative arrangement for a further year would likely to give London authorities a more influential voice about the eventual design of the full 75% scheme which is now due to be implemented in 2021/22".

5.7 There may be an opportunity to use the 2020/21 pool to influence growth measurement in the alternative BR model due to be introduced in 2021/22. Detail on the alternative model is sparse at present but there may be insights we could gain to ensure London retains as much growth as possible in the new scheme.

6. Risks of being in the 2020/21 London Pool

6.1 Individual authority's business rates could decline to such an extent that it creates a net financial deficit in which the pool would collectively be worse off than an individual authority.

6.2 There is "No-Detriment" guarantees from central government as given previously for the pilot pool. However, it is unlikely that the pool income will fall to such levels based on the latest data collated by London Councils.

6.3 The financial benefits of London Pooling under the 67% is not as great as under the pilot scheme due to lower share and higher levy rate.

6.4 As noted in section 4.9 & 4.10 it is very unlikely that councils will be worse off by being in the pool but in 2013-14 Leaders had decided not to go ahead with the 50% pool scheme because growth was 3.5% below baseline level mainly due to large appeals provisions that existed in councils like Westminster. Appeals provision can reduce growth, however there has been large growth since 2015/16 above the baseline figures set by government and therefore it is unlikely to cause similar issues in 2020/21

7. Summary

7.1 There is an estimated financial benefit in being part of the pool of £0.6m, but it is far less than the gains obtained in the 2018/19 (£10m) and 2019/20 (£4m) business rates pilot scheme. However, there are strategic reasons to also consider other than the financial gains.

7.2 The business rates pilot has already provided a platform for London authorities to work together and improve their understanding of how the technical business rates system works. If the London pool goes ahead this working relationship will continue.

7.3 The designated pool was included in the provisional local government finance settlement. The council now has until 16 January 2020 to review and opt out if necessary.

8. Financial Implications

8.1 Based on the growth estimates there would need to be significant losses within the 2020/21 pool before councils in London were to lose out. If the pool as a collection of all councils fall below the cumulative business rates baseline, it will be protected after a 7.5% loss, i.e. a 92.5% Safety Net threshold. However, if the growth forecast materialises the pool will not be any close to the Safety Net threshold.

8.2 Provisional assumptions indicate that the pool will gain approximately £25m, with Westminster's share being an estimated £0.6m.

8.3 Given the remaining uncertainty around the final quantum that will be delivered in 2020/21 (final estimates are not due to be available until the end of January 2020, and then will be particularly susceptible to the future impact of NNDR appeals outcomes), the gain to Westminster has not been factored into the financial planning assumptions at this stage.

9. Legal Implications

9.1 The Secretary of State has the power to designate two or more "relevant authorities" as a pool of authorities for the purposes of the provisions of Schedule 7B of the Local Government Finance Act 1988. The authorities covered by the designation have to agree to the designation (para 34, sub-para (2)). The Designation Order expected to be made by the Secretary of State will be considered and determined by the Leader of the Council once it is available.

9.2 Local authorities have the power to enter into a Memorandum of Understanding to record the governing arrangements between them including under section 111 of the Local Government Act (LGA) 1972.

10. Staffing Implications

10.1 None

11. Consultation

11.1 None

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact: Gerald Almeroth, Executive Director of Finance, The Council's Section 151 officer Email: galmeroth@westminster.gov.uk

BACKGROUND PAPERS:

Final Pooling Memorandum Agreement

Spending Round Statement MHCLG 4 September 2019

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member Finance, Property and Regeneration**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: Date:

NAME: **Councillor Rachael Robathan, Cabinet Member for Finance, Property and Regeneration**

State nature of interest if any …….

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(*N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter*)

For the reasons set out above, I agree the recommendations in the report entitled **London Business Rates Pooling** and reject any alternative options which are referred to but not recommended.

Signed ……

Councillor Rachael Robathan, Cabinet Member for Finance, Property and Regeneration

Date ……

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, the Council's Section 151 Officer, and, if there are human resources implications, the Director of People Services (or their

representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy and Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.