

London Business Rates Pilot Pool 2018-19 Final Prospectus – November 2017

APPENDIX G2

Introduction

1. Earlier draft versions of this prospectus were circulated to Leaders in July and September asking all boroughs, the City of London and the GLA to consider the issues involved in establishing a pilot pool ahead of the Leaders' Committee and Congress of Leaders and the Mayor on 10 October.
2. At that meeting Leaders' Committee and the Mayor agreed in principle to pool business rates in a London pilot of 100% retention in 2018-19. Leaders' Committee delegated authority to the 5 elected officers of London Councils (the Chair, Deputy Chair, and three Vice Chairs) to take the in principle agreement forward to arrive at a core proposition for the operation of the pool and to continue discussions with both the Mayor and ministers on this. The elected officers discussed this in October and agreed a final distribution option on 1 November following discussions via the party groups, which was subsequently taken forward.
3. The Government formally confirmed its commitment to establishing a 100% business rate retention pilot in London in April 2018 in the Autumn Budget. 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.
4. This final prospectus sets out how the London Business Rates pilot pool will work in practice, were the 32 boroughs, the City of London Corporation and the Mayor of London to form a pool in 2018-19.

Pilot principles

5. The MOU between London Government and the Government on the London 100% business rates retention pilot agrees that:
 - The 100% business rates retention pilot in London will be voluntary, but will be a pool comprising all 32 London boroughs, the Corporation of the City of London and the Greater London Authority.
 - From 1 April 2018 the London authorities will retain 100% of their non-domestic rating income¹. London will not retain 100% of total rates collected, as it will continue to pay an aggregate tariff to government. The overall level of collected rates that will be retained is around 64% after the tariff is paid.
 - 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. Tariffs and top-ups will be adjusted to ensure cost neutrality.
 - The London pool will retain 100% of any growth in business rate income above baselines, and will pay no levy on that growth.

¹ As defined by DCLG.

- In moving to 100% rates retention, the Department for Communities and Local Government will no longer pay Revenue Support Grant (RSG) to the London authorities in 2018/19. Funding baselines will be increased by the equivalent amount to reflect this transfer of RSG, which overall amounts to £775 million in 2018/19 (the full boroughs breakdown can be found at Appendix A).
- 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 in 2017/18.
- 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.
- 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.
- The piloted approach is to be without detriment to the resources that would have been available collectively to the 34 London authorities under the current local government finance regime, over the four year settlement period². This “no detriment” guarantee will ensure that the pool, as a whole, cannot be worse off than the participating authorities would have been collectively if they had not entered the pilot pool. In the unlikely event of this arising (the current forecast is for collected rates to 6% above baselines), the government would intervene to provide additional resources.

Pooling principles

6. The MOU with the Government establishes the terms of the 100% retention pilot, but the London business rates pool must be set up following the same process as all other business rates pools. Following legal advice, the detailed pooling agreement that establishes the terms by which the pool will operate will be by an MOU between the 34 pooling authorities – as is the case for the vast majority of business rates pools.
7. The key principles that underpin the London pooling agreement are that:
 - **The pool in 2018-19 would not bind boroughs 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 onwards (the expected year in which funding baselines will be update as a result of the Fair Funding Review).
 - **No authority can be worse off as a result of participating** - where authorities anticipate a decline in business rates, the first call on any additional resources generated by the pool would be used to ensure each borough and the GLA receives at least the same amount as it would have without entering the pool (this would include the equivalent of a safety net payment were it eligible for one individually under the

² This includes current 67% scheme growth retained under the retention pilot, 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 City of London Corporation.

current 67% system). Where authorities expect to grow, they will continue to retain at least as much of that income as they would under the current system, plus a potential share of the aggregate benefits of pooling assuming the pools grows (see paragraphs 14 and 18). Where the pool overall has less income than would have been available collectively under the 67% system, the funding provided by the Government as part of the “no detriment” guarantee would be used to ensure that no individual authority is worse off than it would have been otherwise. Existing Enterprise Zones and “designated areas”, along with other special arrangements, such as the statutory provision to reflect the unique circumstances of the City of London Corporation, will be taken into account in calculating the level of resources below which the guarantee would operate. For boroughs in an existing pool, DCLG have also indicated that the basis of comparison would include the income due from that pool³.

- **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.

Lead authority

8. 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.
9. 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.
10. It will be for the Lead Authority for the pool to determine the distribution of revenues between members of the pool and also pay the net tariff payment to the Government during the year. In practice, this will mean some authorities will receive net payments from the pool in instalments during the 2018-19 financial year and others will make net payments into the pool depending on their top up and tariff positions and estimated business rates income. These transfers through the pool will also incorporate the GLA’s share.
11. 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

³ Of the 33 London authorities in 2017-18 this includes Barking & Dagenham, Havering and Croydon

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.

12. It is likely that the resources required to perform this function would be 1 FTE post, which would likely be a senior accountant with considerable experience and understanding of collection fund accounting and the business rates retention scheme.
13. 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 following consultation with all participating authorities (as described in paragraphs 21 to 23 below).

Distributing the benefits of pooling

14. The net financial benefit of pooling consists of retaining 100% of growth (rather than 67% across London under the current scheme), and in not paying a levy on that growth (which tariff authorities and tariff pools currently pay). The principle would mean that *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.
15. The net financial benefit to 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.
16. The pooling agreement sets out the principles and method for distributing any net financial benefits that may be generated. The principles are based on four objectives agreed by Leaders and the Mayor:
 - **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).
17. The final agreed distribution method recognises all four of these objectives with 15% of any net financial benefit set aside as a "Strategic Investment Pot" (see paragraphs 19 to 23 below); and the resources not top-sliced for the investment pot being shared between the GLA and the 33 billing authorities (the 32 boroughs and the Corporation of London) 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 Government in September 2016. Estimated boroughs shares of the estimated £240 million net benefit to the pool and the above distribution weightings are set out in Appendix B.
18. The Mayor of London has committed that the GLA's share of any additional net financial benefit from the pilot will be spent on strategic investment projects. It is therefore anticipated that approximately 50% of net additional benefits arising from the pilot pool will be spent on strategic investment projects. Decisions on the allocation of the GLA's share will be made by

the Mayor of London. Examples of the kinds of projects the Mayor will seek to support with the GLA's share include supporting the delivery of housing through infrastructure investment and the provision of skills and training to further support housing delivery.

Strategic investment pot and pool governance

19. The joint Strategic Investment Pot (SIP) - representing 15% of the total additional net benefit - will be spent on projects that 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.
20. For these purposes, "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.
21. Following legal advice regarding the form of the governance mechanism for taking decisions regarding the SIP, decisions will be taken formally by the City of London - as the lead authority - in consultation with all member authorities, reflecting voting principles designed to protect Mayoral, borough and sub-regional interests⁴, previously endorsed by Leaders and the Mayor in the London Finance Commission (both 2013 and 2017), and set out in London Government's detailed proposition on 100% business rates in September 2016. These are that:
 - both the Mayor and a clear majority of the boroughs would have to agree;
 - a majority would be defined as two-thirds of the 33 billing authorities (the 32 boroughs and the City of London), subject to the caveat that where all boroughs in a given sub-region disagreed, the decision would not be approved; and
 - if no decisions on allocation can be reached, the available resources would be rolled forward within the pot for future consideration at the next decision making round.
22. 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.
23. 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

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

recommend to the lead authority that a strategic investment project is supported or rejected and if rejected together with its reasons for such recommendation.

Future of the pilot

24. The Government will undertake a qualitative evaluation of the progress of the pilot 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.
25. The MOU between London Government and the Government only commits to the pilot operating for one year. However, subject to the evaluation of the pilot, it also commits the Government to working with London authorities to explore: future options for grants including, but not limited to, Public Health Grant and the Improved Better Care Fund; the potential for transferring properties on the central list in London to the local list where appropriate; and legislative changes needed to develop a Joint Committee model for future governance of a London pool.

Designated areas

26. Enterprise Zones and “designated areas” effectively hypothecate future business rate revenues to support investment. Under current arrangements, these are subject to agreement between the government and the boroughs directly involved, in consultation with the GLA, whose revenues are also affected.
27. The Government is not actively encouraging further such arrangements. However, if, during the lifetime of a pilot pool, new “designated areas” or Enterprise Zones were to be created, this could – depending on the nature of the individual scheme – impact on the potential future revenues of all members of the pool and will need to be considered in establishing the pool and framework.
28. It is not proposed that consideration or decision-making in respect of new designated areas be a matter for the pool. However, depending on the nature of individual schemes, such decisions would have to be taken by the relevant local authority after appropriate consultation with those affected.

Accounting and reporting

29. In order that a the lead authority can fulfil its functions and meet its obligations as the accountable body, each member authority will need to provide timely information to the lead authority as well as making timely payments to an agreed schedule.
30. Forecast (NNDR1) and outturn (NNDR3) figures will still be required as per the existing NDR Regulations 2013, in order to enable budget processes to be complete and for the schedule of payments from the lead authority and to government to be determined during the course of the year. The pool would use NNDR1 returns to establish the schedule of payments to be made to the lead authority and for the calculation of any notional levy savings to be made. However, it would not be until the outturn position is known (the NNDR3 form) that actual reconciliation would be made and the final growth/decline for the pool as a whole, and

individual pool members, would be known. This will be in September 2019 after accounts have been audited for the financial year 2018-19.

31. The forecast NDR income figures in the NNDR1 forms determine the growth/decline for that year and it is this figure that would determine the amount to be shared between pool members or between local authorities and central government in the current system.
32. Variances against forecast in the non-domestic rating income are reflected in the forecast surplus or deficit of the collection fund at the start of the following year (information which is collected as part of NNDR1). Appeals provisions impact each year on the calculation of the NNDR income figure: a higher provision in a year, everything else being equal, reduces the NNDR income figure determining growth/decline for that year.
33. A separate pooled collection fund would be required to be established that would sit with the lead authority. A key issue will be the treatment of Collection Fund surpluses and appeals provisions within the pool. The key principle pooling authorities would have to agree is that the benefits (or costs) of actions undertaken by the authorities prior to entering the pool should remain with the authority so that no authority can be worse off than they would have been under the 67% scheme. So – for example – if a provision established in 2013-14 proves not to be necessary and is released during 2018-19, the authority should receive at least as much as it would have under the existing 67% scheme, plus its share of any additional retained revenues.
34. The pool's collection fund account would have to continue beyond the life of the pool until all appeals relating to the pool period were resolved. Provisions released after the operation of the pilot would be distributed on the basis of the pool's founding agreement – i.e. the authority where the provisions originated would receive at least as much as it would under the 67% retention system, with any additional resources being shared according to the pool's agreed distribution mechanism. There would therefore be no "gaming" benefits to individual authorities of setting higher (or lower) provisions. The lead authority would be responsible for administering this.
35. Further work is being undertaken to set out how the accounting and reporting requirements would work in practice, which may require an additional "London pool" form to be administered by the lead authority. This will be confirmed following the Provisional Local Government Finance Settlement in December.

Next steps - Local decisions required to establish the pool

36. Establishing a pilot pool will require two separate decisions to be made by each participating authority:
 - the agreement to accept the designation order by government to form the pool; and
 - agreement between the boroughs, the City of London and the GLA by which London Government collectively decides how to operate the pool and distribute the financial benefits (the pooling MOU).
37. With regard to the former, the Government has prepared a draft "designation order" establishing a London pilot pool that will be sent out by DCLG alongside in the Provisional

Local Government Finance Settlement in December (a draft of the designation order letter will be circulated alongside this final prospectus). If any authority decides to opt out within the following 28 days – that is, by 28 days after the Provisional Local Government Finance Settlement – the pool would not proceed.

38. The pooling agreement MOU between the 34 London authorities will be circulated by Friday 1 December, to be signed by each Leader of the 32 London boroughs, the Chairman of the Policy and Resources Committee of the City of London and the Mayor of London, and.
39. Each authority will need to take the relevant decisions regarding the pooling agreement and designation order, through its own constitutional decision-making arrangements in time for the resulting business rate and funding baselines to be incorporated within the Final Local Government Finance Report in February.
40. In order to facilitate and support authorities in taking these decisions, advice on the legal framework and governance options for the pool has been circulated to Chief Executives and Finance Directors, along with other supporting material to help facilitate those local decisions including:
 - draft resolutions to support boroughs in drafting any cabinet/committee/council reports
 - an FAQs document to answer any legal queries in relation to the pool
 - a further legal note on executive decisions
 - this final prospectus.
41. The timeline to make the pool operational is as follows:
 - Government publishing draft baseline figures in the provisional settlement (Mid-December).
 - Boroughs taking formal decisions to participate in the pool and the framework for its operation within 28 days of the Provisional Settlement (by mid-January 2018).
 - Final baselines published in final LGF Settlement (February 2018).
 - Pool goes live (April 1 2018).

Appendix A – Revenue Support Grant amounts to be rolled in to the funding baselines as part of the London 100% BRR pilot

The amount of Revenue Support Grant (RSG) to be ‘rolled-in’ to 100% rates retention for 2018/19 for each authority is set out below. This is in addition to the sums rolled in in 2017-18 in respect of the Transport for London investment grant and the Greater London Authority’s RSG under the GLA’s partial pilot.

	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

NB: Provisional baselines and tariffs and top-ups will be circulated following the Provisional Local Government Finance Settlement in December.

Appendix B – Forecast shares of net financial benefit in 2018/19 based on £240 million estimate

The figures below represent the estimated shares of the overall net financial benefit currently forecast from the London pool in 2018/19 (£240m), applying the distribution methodology set out in paragraph 17, which applies the following weightings (15% incentives: 35% population; 35% SFA; 15% Strategic Investment Pot).

Table B1 - Breakdown of estimated total net benefit

	£m	%
<i>Incentives pot (boroughs' share)</i>	23.0	9.6%
<i>SFA pot (boroughs' share)</i>	53.7	22.3%
<i>Population pot (boroughs' share)</i>	53.7	22.3%
London Boroughs total	130.3	54.2%
GLA total	73.9	30.8%
Boroughs/GLA total	204.3	85.0%
Strategic Investment Pot	36.0	15.0%
London Total	240.3	100.0%

Note: The GLA's total is comprised of 36% of each of the incentives, SFA and population pots

Table B2 – Borough breakdown of estimated net benefit in 2018/19

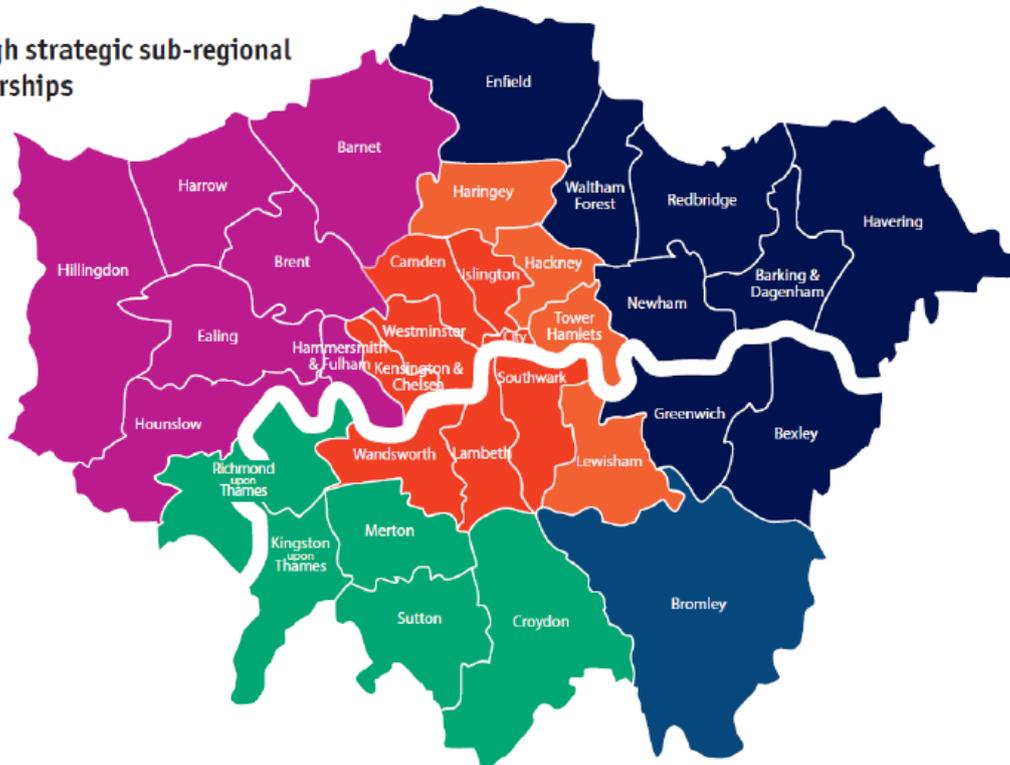
	£m
Barking & Dagenham	2.8
Barnet	3.7
Bexley	2.8
Brent	4.9
Bromley	2.9
Camden	5.7
City of London	8.2
Croydon	4.3
Ealing	4.4
Enfield	4.2
Greenwich	3.9
Hackney	4.6
Hammersmith & Fulham	2.6
Haringey	3.7
Harrow	2.4
Havering	2.5
Hillingdon	5.4
Hounslow	3.4
Islington	3.8
Kensington & Chelsea	2.2
Kingston upon Thames	1.7
Lambeth	5.3
Lewisham	4.3
Merton	2.4
Newham	6.2
Redbridge	3.2
Richmond upon Thames	1.7

Southwark	6.0
Sutton	2.1
Tower Hamlets	8.0
Waltham Forest	3.4
Wandsworth	3.9
Westminster	3.8
London Boroughs total	130.3
GLA total	73.9
Boroughs/GLA total	204.3
Strategic Investment Pot	36.0
London Boroughs total	240.3

Note: These figures should be treated with caution and are only indicative. They are based on modelling which uses boroughs' own estimates from a survey of London Treasurers in May 2017. Where boroughs did not respond, the 2017-18 forecast figures were used.

Appendix C - Illustrative sub-regional groupings for the purposes of the “sub-regional veto” in respective of Strategic Investment Pot decisions

Borough strategic sub-regional partnerships



West London Alliance	Barnet, Brent, Ealing, Hammersmith & Fulham, Harrow, Hillingdon, Hounslow	+ Hackney, Haringey, Tower Hamlets and Lewisham for employment devolution
Central London Forward	Camden, City, Islington, Kensington & Chelsea, Lambeth, Southwark, Wandsworth, Westminster	
Local London	Barking & Dagenham, Bexley, Enfield, Greenwich, Haringey, Newham, Redbridge	+ Bromley for employment devolution
South London Partnership	Croydon, Kingston upon Thames, Merton, Richmond upon Thames, Sutton	