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THE CABINET

Wednesday, 15th November, 2017 at 8.15 pm in the Conference Room, Civic Centre, Silver Street, Enfield, EN1 3XA

AGENDA – PART 1
TO FOLLOW PAPERS – 2nd DESPATCH

Please find attached the report listed below, marked as "to follow" on the previously circulated agenda:

7. BUSINESS RATES (Pages 1 - 12)

A report from the Executive Director of Finance, Resources and Customer Services is attached.

(Report No.90)
(8.25 – 8.30 pm)

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Agenda Item 7

MUNICIPAL YEAR 2017/18 REPORT NO: 90

Agenda – Part: 1	**Item: 7**
Subject: BUSINESS RATES **Wards: All**	

MEETING TITLE AND DATE:
Cabinet: 15 November 2017
Council: 22 November 2017

REPORT OF:
Executive Director of Finance, Resources & Customer Services

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1. EXECUTIVE SUMMARY

- The Government has indicated its wish to see a London-wide business rate pilot pool established in April 2018. The Leaders' Committee at London Councils has indicated an in-principle agreement to an application to Government for such a pool, subject to the individual approval of all London authorities.
- For the proposals to proceed and be reflected in the provisional Local Government Settlement in December, it is necessary for all London authorities to indicate an in-principle intention to proceed before the Autumn budget (22 November).
- Formal and final decisions will need to be taken by all London authorities by mid-January, in order to be reflected in the Final Local Government Settlement in February 2018.
- This report sets out the issues and the proposed timetable.

2. RECOMMENDATIONS

Cabinet

2.1 Cabinet is asked to note the report and recommend to the Council to (1) agree in-principle to participation in a 2018/19 pilot London business rate pool and (2) delegate authority to the Leader and the Executive Director of Finance, Resources and Customer Services to take the necessary actions to finalise the agreements regarding designation of the pool, operation of the pool and distribution of financial benefits and implement the proposals.

3 INTRODUCTION

3.1 The Government has now indicated its renewed wish to see a business rate pilot pool established in London in April 2018, as indicated in the previous Memorandum of Understanding between the Government and London signed in March 2017. At the London Councils Leaders' Committee on 10 October, it was agreed to support an application for the pool in principle, subject to the agreement

of all individual participating authorities. This report sets out how the pool might work and the associated governance and timetabling issues.

4 HOW THE POOL WOULD OPERATE

4.1 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. London Councils has provided a prospectus of how a London pool might operate, and how the potential financial benefits might be shared among London Authorities (The GLA, the City and the 32 London Boroughs). A summary of the prospectus is provided in Appendix 1 for information.

4.2 The key features offered and expected by the government would be:

a. The pilot pool would be voluntary, but, to come into being, would need to include all London authorities.
b. London would collectively retain a greater proportion of the business rates collected in the capital, swapping these resources for Revenue Support Grant. (London would not in practice keep the full 100% of rates collected, as it would still pay an aggregate tariff to government to support local services in other parts of the country).
c. London would, however, retain 100% of any growth in business rate income above baselines, and would pay no levy on that growth. London Councils currently estimates the net benefit to London would be in the region of £240 million in 2018/19.
d. If London's business rates income fell, the collective pool would have a higher "safety net" threshold – 97% rather than 92.5% - than individual authorities in the existing system. This broadly reflects the greater reliance local authorities will have on business rates within the pilot. (For context, London's authorities are currently collectively estimating overall growth in rates income of 6%).
e. A "no detriment" guarantee will ensure that the pool 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 government would intervene to provide additional resources. As a result, London would be able to guarantee that no authority could lose out because of participating: where authorities anticipate growth, 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.

4.3 The prospectus proposes two founding principles that require agreement at the outset by all pooling members.

4.4 The first founding principle of the agreement would be that no authority participating in the pool can be worse off than they would otherwise be under the 50% scheme. This would include a guarantee that, where authorities are anticipating growth, they will continue to receive at least the same increase in income as they would have received under the present system, plus a further share of the net benefits of the pool as a whole.

4.5 The second founding principle is to recognise that growing London's economy is a collective endeavour in which all boroughs make some contribution to the success of the whole, and therefore all members would receive some share of any net benefits arising from the pilot pool.

4.6 The prospectus outlined four weighted methods by which any additional financial benefit from retained business rates growth might be shared. An exemplification of the four weightings for the City of London, LB Enfield, and LB Waltham Forest is shown in Table 1 below.

	A	B	C	D
Table 1 - Exemplification of Potential Weightings	Equal weighting to each objective	Reduce Strategic Pot, Weight to Rates Growth, Needs and Population Equally	Greater weighting to Rates Growth, equal weighting to needs, population and strategic investment	Greater weighting to needs and population, reduced equal weighting to rates growth and strategic investment
	£m	£m	£m	£m
City of London	13.1	15.7	20.7	10.6
Enfield	3.3	3.9	3.1	3.7
Waltham Forest	2.4	2.9	1.9	2.9
Amount available in strategic pot	60.1	24.0	48.1	48.1

4.7 The Leaders' Committee delegated further negotiation on detailed matters (including proposed distribution methods) to be then put to individual authorities and the Mayor of London for agreement to the Chief Executive of London Councils, in consultation with London Councils' Chair, Deputy Chair and Vice Chairs

4.8 Following discussions, a new distribution weighting has been agreed. On 10 November 2017, the Chair of London Councils wrote to Borough Leaders advising them of the updated position, with the agreement of the new option that weighted the distribution at 15% rates growth; 35% to needs; 35% to population and 15% to an investment pot. This new distribution is in LB Enfield's favour, and the estimated share of the £240m under this option is £4.2m (higher than under any of the original options).

5 GOVERNANCE AND TIMETABLING

5.1 Bringing a pilot pool into effect requires two separate, but inter-related strands of decision-making:

- between the London local authorities, the Mayor, and the Government by which the Government designates the pool; and

- between the London local authorities and the Mayor of London by which London Government collectively decides how to operate the pool and distribute any financial benefits.

5.2 A 2018/19 pilot requires in principle agreement to be achieved between the authorities and the government before the Autumn Budget (now confirmed to be on 22 November 2017) for inclusion in the Provisional Local Government Finance Settlement in mid-December. Following the Provisional Settlement, any authority that did not want to proceed on the agreed terms would have 28 days to inform the government. If this happened, the pilot pool would no longer be viable.

5.3 The agreement between the authorities on the framework for operating the pool, will be progressed in parallel. To facilitate this process London Councils will procure legal advice on behalf of all the London local authorities (working in collaboration with the GLA) which will inform detailed guidance and frame the required decisions for member authorities to adopt and/or adapt to reflect their individual constitutional arrangements to give effect to the proposals. This is expected by 3 November 2017.

5.4 All 34 authorities' decisions would need to be taken by mid-January 2018 at the latest, in order to be reflected in the Final Local Government Financial Settlement in February 2018.

6 ALTERNATIVE OPTIONS CONSIDERED

6.1 In the light of the possible financial benefits, and the proposals for how these benefits might be shared, the preferred option is to join a London-wide pool, rather than remain in the present situation.

6.2 The prospectus from London Councils sets out different options for sharing any potential gain amongst London authorities.

7 REASONS FOR RECOMMENDATIONS

7.1 There are potential financial benefits to this council and London wide from joining a pilot pool which is why it is recommended that London Borough of Enfield participate. Because of the timescale, it is requested that authority to conclude this process be delegated to the Leader and to the Executive Director of Finance, Resources and Customer Services.

8 COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

8.1 Legal Implications

This report sets out the lawful basis upon which recommendations will be made to enter into a London Business Rates Pool.

There is an existing legal framework for the consideration of Business Rates Pools which are established by the Local Government Finance Act 2012, Schedule 1, amending the Local Government Finance Act 1988, Schedule 7B, para 34. In addition, section 111 of the Local Government Act 1972 gives a local authority power to do anything which is calculated to facilitate, or is conducive or

incidental to, the discharge of any of its functions. The recommendations detailed in this report are in accordance with these powers.

The Council has discretion as to whether it wishes to apply to join the London Business Rates Pool. The proposed founding principles of the pilot are intended to minimise the risks for the Council in joining the proposed scheme. These are (i) 'Nobody Loses' whereby no authority participating in the scheme will be worse off than they otherwise would be under the current scheme and (ii) all members will receive some share some of any net benefits arising from the pool.

To secure designation as a pool for 2018/19, 'in-principle' agreement must be secured from all London authorities before the Autumn Budget for inclusion in the Local Government Finance Settlement in December. The authorities must also convene local arrangements to operate the pool and distribute any financial benefits.

The Council may also wish to seek and obtain formal assurance that there will be no new burdens imposed on London authorities as part of this business rates pilot agreement.

Appropriate consultation should be undertaken and taken into account with those affected as part of this decision-making process.

The Council has ongoing duties under the Equality Act to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relations between those who share a protected characteristic and those who do not. Members must consider how their decisions will contribute towards meeting these duties in light of other relevant circumstances such as economic and practical considerations.

Expert legal opinion on the proposals is being procured by London Councils.

8.2 Financial Implications

There will be no immediate financial impact, as any benefits will only flow through once all Boroughs' rates income for the 2018/19 financial year has been finalised. It is not therefore proposed at this stage to include any assumptions on potential additional funding arising from participating in the pilot pool in the 2018/19 Budget.

8.3 Key Risks

One risk is that the estimates of business rates growth in London which are being used to exemplify the benefits of pooling are not achieved. This risk is mitigated by the proposed safety net and the no detriment guarantee which London Councils is seeking assurance on from Government.

There should be no new burdens imposed on London authorities as part of this business rates pilot agreement. The Memorandum of Understanding on Devolution agreed in March included business rates within a broader package of service devolution ambitions. Leaders and the Mayor would not want to see the potential benefits of the pilot being regarded as funding streams for newly devolved responsibilities. London Councils officers have sought and received

such assurance from civil servants, but they want to see this more formally recognised.

8.4 Property Implications

There are no Property implications arising from the proposals.

9 IMPACT ON COUNCIL PRIORITIES

9.1 As there will be no immediate financial impact, there will be no immediate impact on council priorities.

10 EQUALITIES IMPACT IMPLICATIONS

10.1 Discussions on re-distribution of additional monies include consideration of financial need.

11 PERFORMANCE MANAGEMENT IMPLICATIONS

11.1 There are no performance management implications.

12 **PUBLIC HEALTH IMPLICATIONS**

12.1 There are no public health implications directly related to this report.

Background Papers

None.

Appendix 1: Summary of London Councils Prospectus on London Business Rate pilot pool

Introduction

1. This is a summary of the prospectus that was reported to the London Councils Leaders' Committee on 10 October 2017. The report and prospectus are here: http://www.londoncouncils.gov.uk/node/32689

2. There was a lack of clarity following the general election over Government's intentions on business rates reform. The Secretary of State has now written to London Councils and London is being invited to pilot a London Business Rate Pool in 2018/19. London Councils has updated its prospectus in the light of this and further discussions with Government, the Mayor and with members of the London Councils Executive.

3. The updated draft prospectus sets out how the London Business Rates pilot pool would work in practice. It seeks to address issues raised by Leaders and provides minor updates to the estimated benefits of pooling, arising from increased growth projections in 2018-19 received from some boroughs over the summer. The revised prospectus sets out more fully some of the issues around potential next steps and timescales, should boroughs be minded to proceed.

The anticipated "terms of trade"

4. The key features offered and expected by the Government would be:

    - The pilot pool would be voluntary, but must include all London authorities
    - London would collectively retain a greater proportion of business rates collected, swapping these resources for Revenue Support Grant, Public Health Grant and the Improved Better Care Fund. (London would not in practice keep the full 100% of rates collected, as it would still pay an aggregate tariff to Government to support local services in other parts of the country).
    - London would, however, retain 100% of any growth in business rate income above baselines, and would pay no levy on that growth (this net benefit is estimated at £240 million in 2018/19).
    - If London's business rates income fell, the collective pool would have a higher "safety net" threshold – 97% rather than 92.5%
    - A '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, Government would intervene to provide additional resources.

5. Feedback from Leaders and discussion at Executive has indicated a desire for assurance from the Government on key aspects of a potential agreement:
    - There should be no new burdens imposed on London authorities as part of this business rates pilot agreement. Leaders and the Mayor would not want to see the potential benefits of the pilot being regarded as funding streams for newly devolved responsibilities. London Councils officers have sought and received such assurance from civil servants, but this needs formal recognition.
    - Interaction with the Fair Funding review. The prospectus states that '*Participation on a pilot pool will not affect the outcome, or London's ability to contribute to the review in any way, and Leaders are keen that Government formally acknowledges this.'*

6. The Secretary of State's letter concludes by stating that he '*would be keen to see detail of robust governance arrangements and a commitment to invest a significant share of pooled funds in London-wide strategic growth and priority projects.'* Leaders have raised questions about these points, which are discussed in more detail in the prospectus. The prospectus states that the Government will want to see evidence of progress before it will agree to designate a London pool.

Founding principles for a London business rates pilot pool

7. It is proposed that there are two founding principles that would require agreement at the outset by all pooling members:
    - Nobody loses
    - All members share some of the benefit

8. Civil servants have confirmed that a London pilot pool would be underpinned by the same safety net arrangements and "no detriment" guarantee currently offered to existing pilots in 2017/18. This ensures that the pool cannot be worse off than the participating authorities would have been collectively if they had not entered the pool. (It is worth noting that other authorities applying to become pools in response to the latest invitation will not receive this guarantee). The guarantee would ensure that the minimum level of resources available for London, as a whole, could not be lower than it would otherwise be. To ensure that no individual authority loses out as a result of participating, the first call on any additional resources generated by levy savings and additional retained rates income, would be used to ensure each borough and the GLA receives at least the same amount as it would have without entering the pool. Each borough – whether its business rate income grows or declines during the operation of the pilot pool – will receive, as a minimum, the same amount of cash it would have received under the existing 50% system.

9. In recognition of the complex interconnectedness of London's economy, it is proposed that the second proposed founding principle would be that all members would receive some share of any net benefits arising from the pilot pool.

Sharing the benefits of pooling

10. The latest estimated net benefit to a London pool is £240 million in 2018/19 following the inclusion of updated estimates from a small number of boroughs over the summer. The prospectus identifies four 'objectives' that the distribution of any gains could reflect. These are set out in Table 1 below, with comments from the prospectus on the methodology that could be used.

11.

Table 1: Distribution Objectives	**Prospectus comments**
Incentivise business rates growth: allow those boroughs where growth occurs to keep some proportion of the extra resources which would be retained because of the London pool.	A "pure" way to incentivise growth would be for the London local authorities where growth occurs to retain the full benefit, including any levy savings, after ensuring all authorities had been brought up to the level of funding they would otherwise have received under the current 50% scheme. This option would see the greatest reward go to those whose business rates grow, but would produce no net benefit for the minority of boroughs where no (or negative) growth is expected.
Recognise the contribution of all boroughs (through a per capita allocation).	A simple ***per capita distribution*** using the latest population estimates from the ONS would recognise the requirement to work collectively to grow London's economy and ensure a share of the benefit for all authorities.

Table 1: Distribution Objectives	**Prospectus comments**
Recognise need (through the needs assessment formula).	While the role of incentivising growth is important, some recognition of ***increasing need*** and demand for services has also been identified as a priority. Economic and business growth also drives and is reinforced by increasing demand for services across the capital. One measure that could be used to distribute any net benefit could therefore be to reflect the Government's current assessment of need: Settlement Funding Assessment (although this will clearly be subject to change in future following any Fair Funding review).
Facilitate collective investment (through an investment pot designed to promote economic growth and lever additional investment funding from other sources).	Recognising the requirement for collective investment to promote further economic growth could be facilitated by retaining resources in a strategic investment pot. Such an approach would help address the Government's original policy objectives behind business rate retention. It is assumed that,to achieve any significant impact, such resources would need to be invested in a small number of targeted projects.

12. The prospectus puts forward options for weighting the four objectives, to get a balance of rewarding growth and funding need, by splitting the projected overall benefit of £240m into four funding pots which would then be distributed according to the methods in Table 1 above.

13. The four weightings are:

    A. An even split percentage between the four pots (25:25:25:25).

    B. Reducing the strategic investment pot to 10% of the total, while the "reward", "needs" and "population" pots are equally weighted (30:30:30:10).

    C. Greater "incentive weighting" with equal weighting for the other three pots (40:20:20:20)

    D. Greater "needs" and "population" weightings (each 30%) with equal remaining weightings of 20% for "incentives" and "investment" pots (20:30:30:20)

14. The impact on each borough of these weighting options is provided in Appendix A to the prospectus. An exemplification of the four weightings for the City of London, LB Enfield, and LB Waltham Forest is shown in Table 2 below.

	A	B	C	D
Table 2 - Exemplification of Potential Weightings	Equal weighting to each objective	Reduce Strategic Pot, Weight to Rates Growth, Needs and Population Equally	Greater weighting to Rates Growth, equal weighting to needs, population and strategic investment	Greater weighting to needs and population, reduced equal weighting to rates growth and strategic investment
	£m	£m	£m	£m
City of London	13.1	15.7	20.7	10.6
Enfield	3.3	3.9	3.1	3.7
Waltham Forest	2.4	2.9	1.9	2.9
Amount available in strategic pot	60.1	24.0	48.1	48.1

15. When comparing different approaches, it is important to consider whether would be beneficial to have a top sliced strategic pot as this affects the remaining amount available to flow more directly to the Boroughs. Whilst Option B gives slightly more gain to LB Enfield directly, there is less money in the top-sliced pot than in Option D. Leaders were invited to consider the options in the context of balancing the objectives of incentives and need, and be in a position to indicate a preference for the weighting by the time of the meetings of the Leaders' Committee and Congress of Leaders and the Mayor on 10th October. Any final decision on such matters will remain with the authorities themselves in agreeing to participate in the pool on these terms or by agreeing the mechanism by which such matters will collectively be agreed after the pool is established.

Governance and the Investment Pot

16. Leaders and the Mayor have previously identified Congress of Leaders and the Mayor as the appropriate body formally to express any commitments. However, legally, a pilot pool requires two separate agreements:
    - between London and the Government by which the Government designates the pool; and
    - between the boroughs, City of London and the Mayor of London by which London Government collectively decides how to operate the pool and distribute the financial benefits

17. For both agreements, each authority will need to take the relevant decisions through its own constitutional decision-making arrangements. The Government will require "in principle" agreement by the time of the Provisional Local Government Finance Settlement in December; in practice this will likely still be subject to final approval pending all participating authorities taking the required decisions.

18. Participation in a pool in 2018-19 would not bind boroughs or the Mayor indefinitely. As with existing pool arrangements, the founding agreement would need to include notice provisions for authorities to withdraw in subsequent years.

19. On any investment pot, it is proposed that approved proposals should:

- promote increased economic growth, and increase London's overall business rate income; and
- leverage additional investment funding from other sources.

20. These principles would be agreed as part of the founding agreement for the pool – and would therefore require unanimous support. The prospectus suggests that Boroughs might consider delegating management of the investment pot to a new joint committee, including the Mayor, to avoid a cumbersome process for project approval.

Accounting and reporting arrangements

21. As in other existing pools, it is a statutory requirement that a 'lead authority' act as the accountable body to government and would be responsible for administration of the pooled fund. Responsibilities from existing pool agreements typically cash management, accounting and reporting. The lead authority would, therefore, be responsible for the net tariff payment to central government as well as the internal tariff and top up payments to the pool authorities. The partner billing authorities would make payments to the lead authority based on an agreed schedule, which could be made on the same schedule of payment dates agreed for tariff and top up payments.

22. 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.

23. 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 boroughs prior to entering the pool should remain with the borough so that no borough can be worse off than they would have been under the 50% scheme.

Timetable

24. A 2018-19 pilot would require in principle agreement to be made between the authorities and the Government before the Autumn Budget – now confirmed to be on 22 November 2017 – for inclusion in the Provisional Local Government Finance Settlement in December.

25. At the same time, each of the 34 authorities must take all relevant decisions at a local level, regarding both:

    - the designation of the pool by the Government and the appointment of a named lead authority; and
    - agreeing the framework for the pool's operation.

26. London Councils propose to procure legal advice on behalf of all the London local authorities (working in collaboration with the GLA) which will inform detailed guidance and frame the required decisions for member authorities to adopt and/or adapt to reflect their individual constitutional arrangements to give effect to the proposals. All 34 authorities' decisions would need to be taken in time for the resulting business rate and funding baselines to be incorporated within the Final Local Government Finance Report in February.

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