

Leaders' Committee

London Business Rates pilot pool 2018-19

Item 6

Report by: Guy Ware **Job title:** Director: Finance, Performance & Procurement
Date: 10 October 2017
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Summary

This report updates Leaders' Committee on progress towards a London Business Rates Pilot Pool since July, when the Committee last considered this issue.

It sets out the latest information on the government's position, and emerging proposals for a pilot pool, including the distribution of any financial benefits that arise. It seeks both the Committee's in-principle support for proceeding with an application to become a pilot pool and a steer on key elements of the pool's operation and governance. Finally, it informs Leaders of the nature and timetable for decisions that each local authority would be required to take to give effect to the proposals.

Recommendations

Leaders' Committee is asked consider the report and, noting that any arrangements will be subject to the individual approval of all the London local authorities, to:

- (1) Support in principle an application to government for a London-wide business rate pilot pool for 2018/19, based on the features set out in paragraph 8 of Appendix B (and subject to the receipt of satisfactory assurances regarding "new burdens" and the "fair funding review" as identified in paragraph 10 of Appendix B).

Should recommendation (1) be agreed, Leaders' Committee is further asked to:

- (2) agree to delegate to the Chief Executive in consultation with Elected Officers of Leaders' Committee¹ in accordance with

¹ That is, the Chair, Deputy Chair and three Vice Chairs.

urgency procedures, the negotiation of the detail of final proposals to be then put to individual authorities and the Mayor of London for agreement (see paragraph 9);

- (3) express a preference between the four options for distributing the financial benefits of a pool outlined in Appendix B, Section D; and/or to provide a steer on the relative weighting between the elements of a final distribution option to be devised;
 - (4) indicate whether it is content in principle – and subject to further legal advice – to develop proposals by which the authorities would delegate to a new joint committee of Leaders and the Mayor the exercise of functions in respect of deciding the allocation of strategic investment resources to specific projects in accordance with the principles and voting arrangements to be contained within the agreed framework for operating the pool (see paragraph 15)
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London Business Rates pilot pool 2018-19

Introduction

1. Following Leaders' Committee in July, a draft prospectus was circulated to Leaders, asking all London Boroughs, the City of London Corporation and the Mayor of London to consider over the summer the issues involved in establishing a business rates pilot pool, in preparation for this meeting and the Congress of Leaders and the Mayor on 10 October.
2. At that time, following the General Election, the government's position on the future of business rate retention, and on the agreement of additional pilots, was unclear. In the first week of September, the government clarified its position, and the momentum behind business rate retention pilots is growing rapidly.
3. The government has now formally confirmed its renewed desire 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. It further issued a general invitation to authorities outside London to apply to become pilot pools next year, with a deadline for applications of 27 October. The Secretary of State for Communities and Local Government has subsequently written to the Chair and Vice-Chair of London Councils confirming his desire to conclude an agreement on a voluntary pilot pool for London (attached as Appendix A).
4. The London Councils' Executive met on 12 September and discussed the latest position and feedback from informal discussions amongst Leaders and the London authorities over the summer. Following that, an updated draft prospectus was circulated to all London local authorities on 18 September, and is attached to this report as Appendix B. It sets out how it is envisaged that the London business rates pilot pool would work in practice, should the 32 boroughs, the City of London Corporation and the Mayor of London agree to form a pool in 2018-19, subject to further legal advice. It seeks to address issues raised to date and provides minor updates to the estimated benefits of pooling, arising from increased growth projections in 2018-19 received from a number of boroughs over the summer.

5. Leaders should note that, in the event that the London pilot pool does not proceed, the terms of the government's invitation to pilot 100 per cent retention² allow for authorities to express a preference for a "fall back" position – that is, a pool arrangement they would like to operate under the existing 50% retention scheme. Any authorities wishing to propose such arrangements will, with the agreement of all the members of their proposed pool, need to notify DCLG by 27 October

Considerations for Leaders' Committee

Support in principle

6. As set out in the draft prospectus, bringing a pilot pool into effect would require two separate, but inter-related strands of decision-making:
 - 1) between the London local authorities, the Mayor, and the government by which the government designates the pool; and
 - 2) 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.
7. Neither Leaders' Committee nor the Congress of Leaders and the Mayor has the legal authority to take decisions or make binding commitments on behalf of individual authorities in this matter. Establishing a business rates pool in London will require each authority participating in the pool to agree to do so individually, and also to agree the terms upon which they will participate jointly with other members.
8. Leaders' Committee is therefore asked to consider the information and issues set out in Appendix B. The Committee is recommended to indicate in principle support for a London-wide business rate pilot pool for 2018-19, based on the features set out in paragraph 8 of Appendix B (subject to the receipt of satisfactory assurances regarding "new burdens" and the "fair funding review" as identified in paragraph 10 of Appendix B.)
9. Leaders' Committee is further recommended, in line with urgency arrangements, to agree to delegate to the Chief Executive in consultation with Elected Officers of

² <https://www.gov.uk/government/publications/100-business-rates-retention-pilots-2018-to-2019-prospectus>

Leaders' Committee³ the negotiation of the detail of final proposals to be then put to individual authorities and the Mayor of London for agreement, recognising that each local authority will need to take its own decisions regarding both the designation order establishing the pool and the framework for its operation.

Distributing the benefits of a pilot pool

10. If Leaders are minded to support the application to the government to designate a pool, it will become necessary to finalise the arrangements by which the pool would operate, including the basis on which any financial benefits would be distributed. Any arrangements must be rational and ensure that there is a fair distribution of benefits amongst the authorities. Section D, paragraph 22-32 sets out four objectives that could inform the distribution of such gains:

- **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)

It further describes and models four options reflecting different weightings applied to each of these objectives.

11. In the light of this information, and of the government's expressed desire to see a "significant share" of the net benefits invested in "strategic growth and priority projects"⁴, Leaders' Committee is invited to express a preference between the four options outlined in Appendix B, and/or to provide a steer on the relative weighting between the elements of a final distribution option to be devised.

³ i.e. the Chair, Deputy Chair and three Vice Chairs

⁴ Sajid Javid, Secretary of State for Communities and Local Government, letters to Cllr Claire Kober and Cllr Teresa O'Neill, 8 September 2017 – attached as Appendix A.

12. The final approach to distributing benefits – whether from the existing four options, or a newly-developed proposal – would then form part of the framework for operating the pool to be determined by the decision of each local authority as set out above.

Governance

13. Participation in a pilot pool is voluntary. The framework for operating the pool, including the basis of distributing the financial benefits and the appointment of a lead authority, will be determined in advance, and subject to agreement via the individual decisions of each local authority.

14. However, assuming that framework includes earmarking a proportion of the resources for a “strategic investment pot” controlled collectively by all members of the pool, further decisions would be required periodically to allocate those earmarked resources to specific projects. It is important to note that not only does the framework itself need to be rational and fair in the way it is established; but further any decisions that are taken under that framework will also need to be rational, reasonable and fair. The updated prospectus sets out the principles upon which such decisions might be taken, along with a potential mechanism and voting arrangements for taking such decisions through a new joint committee of Leaders and the Mayor (see Appendix B, paragraph 36ff).

15. In the light of this information, Leaders’ Committee is asked to indicate whether it is content in principle – and subject to further legal advice and the approval of each of the authorities – to develop proposals by which the authorities would delegate to a new joint committee of Leaders and the Mayor the responsibility for deciding the allocation of strategic investment resources to specific projects in accordance with the principles and voting arrangements to be contained within the agreed framework for operating the pool.

Lead authority

16. All business rate pools statutorily require a lead authority for the purposes of accounting for the cash flows between pool authorities and the government. That appointment would form part of the operating framework, and therefore subject to the approval of all the participating authorities. The responsibilities of the lead authority are described in Appendix B para 47.

Timetable

17. Should Leaders' Committee and the Mayor indicate a willingness in principle to proceed, a 2018-19 pilot would require 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.
18. As outlined in Appendix B, section G, the two strands of work – to underpin the government's pool designation and the agreement between the authorities on the framework for operating the pool, will be progressed in parallel.
19. All 34 authorities' decisions would need to be taken by mid-January 2018 at the latest. Whilst it is a matter for each local authority as to how they take their decisions, and the form their decisions should take, it is noted that some authorities may not wish to wait until the terms of the pool designation are agreed in principle with the government in November. Rather, authorities may wish to consider taking some decisions at an earlier stage following 10 October, e.g. to agree to participate in the pool subject to the exact terms being negotiated and agreed (perhaps under delegated authority).
20. In order to facilitate this process London Councils is procuring legal advice on behalf of all the London local authorities (working in collaboration with the GLA) which will inform detailed guidance and assist in framing the required decisions for member authorities to adopt and/or adapt to reflect their individual constitutional arrangements to give effect to the proposals.
21. Whilst the timetable is challenging, and introduces a degree of uncertainty for both authorities and the government during the budget-setting process, London would not be unique in this regard. Any pilot pools agreed in response to the government's recent invitation for applications will not be identified before the end of October, and formal decision-making and agreement to those pilots will be subject to similar legal and constitutional constraints.

22. The timetable highlights the need for a clear expression of support for the proposals at the meetings of Leaders and the Mayor in Congress on 10 October 2017, if the pilot pool is to succeed. Whilst the views of Leaders in those meetings cannot formally commit or fetter the discretion of their authorities in taking their subsequent decisions, we would expect that the views expressed would reflect the views of the authorities concerned. Neither London nor the government would be in the position to proceed without the confidence that such an expression of intent would offer.
23. In the event that Leaders or the Mayor do not support the London pilot pool, any authorities wishing to propose alternative pool arrangements within the existing 50% retention scheme will, with the agreement of all the members of their proposed pool, need to notify DCLG by 27 October.

Recommendations

24. Leaders' Committee is asked consider the report and, noting that any arrangements will be subject to the individual approval of all the London local authorities, to:
- 1) Support in principle an application to government for a London-wide business rate pilot pool for 2018/19, based on the features set out in paragraph 8 of Appendix B (and subject to the receipt of satisfactory assurances regarding "new burdens" and the "fair funding review" as identified in paragraph 10 of Appendix B).
25. Should recommendation (1) be agreed, Leaders' Committee is further asked to:
- 2) agree to delegate to the Chief Executive in consultation with Elected Officers of Leaders' Committee⁵ in accordance with urgency procedures, the negotiation of the detail of final proposals to be then put to individual authorities and the Mayor of London for agreement (see paragraph 9);
 - 3) express a preference between the four options for distributing the financial benefits of a pool outlined in Appendix B, Section D; and/or to provide a steer on the relative weighting between the elements of a final distribution option to be devised;

⁵ That is, the Chair, Deputy Chair and three Vice Chairs.

- 4) indicate whether it is content in principle – and subject to further legal advice – to develop proposals by which the authorities would delegate to a new joint committee of Leaders and the Mayor the exercise of functions in respect of deciding the allocation of strategic investment resources to specific projects in accordance with the principles and voting arrangements to be contained within the agreed framework for operating the pool (see paragraph 15)
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Financial Implications for London Councils

The Director of Corporate Resources advises that the anticipated cost of external legal advice to establish a business rates pilot pool and its operating framework can be contained within existing approved resources.

Legal Implications for London Councils

Leaders' Committee may only discharge those functions which have been delegated by the participating authorities to the joint committee. These functions and the framework for their joint exercise are set out in the London Councils Governing Agreement, dated 13 December 2001 (as amended).

The role of London Councils in progressing this proposal, as set out in this report, is consistent with Leaders' Committee's existing functions *inter alia* – to consult on the common interests of the London local authorities and to discuss matters relating to local government; to represent the interests of the London local authorities to national government and to Parliament and to negotiate as appropriate on behalf of those authorities; to formulate policies for the development of democratic and effectively managed local government; and to do anything which is calculated to facilitate, or is conducive or incidental to, any of the joint committee's functions.

Equalities Implications for London Councils

None

APPENDIX A

Letter from Sajid Javid, Secretary of State for Communities and Local Government



The Rt Hon Sajid Javid MP
Secretary of State for Communities and Local Government

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8 September 2017

Dear Claire,

I am writing to you with regards to the discussions over a 100% business rates pilot for London in 2018/19.

I am committed to delivering the agreement on business rates retention that was struck earlier this year and continue to support “the voluntary pooling of business rates within London, subject to appropriate governance structures being agreed” as set out within the Memorandum of Understanding on 8 March 2017.

As you may be aware, the Government has recently published a prospectus inviting all other local authorities in England to apply to pilot 100% business rates retention in 2018/19. The pilot programme will allow us to evaluate different elements of the 100% business rates retention system and inform the design of a national system of business rates retention, which I will continue to work towards with the Local Government Association and other sector representatives.

The invitation, however, excludes authorities in London. I want to be clear that this is due to the current, separate, negotiations taking place around a pan-London 100% business rates retention pilot. I am looking forward to agreeing a pan-London pilot, with similar arrangements to the existing pilots in other English cities. I hope to see progress on the detail of the pilot and an agreement from all the boroughs and the Mayor shortly. In particular, I 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. My officials stand ready to help in any way needed.

A handwritten signature in black ink, appearing to read 'S. Javid', enclosed within a thin black rectangular border.

THE RT HON SAJID JAVID MP

APPENDIX B

London Business Rates Pilot Pool 2018-19 UPDATED Draft Prospectus – September 2017

A. Introduction and context

1. An earlier version of this draft prospectus was circulated to Leaders in July, asking all boroughs, the City of London and the Mayor to consider the issues involved in establishing a pilot pool over the summer and, in particular, in the run up to the Leaders' Committee and Congress of Leaders and the Mayor on October 10th.
2. At that time, following the General Election, the government's position on the future of business rate retention, and on the agreement of additional pilots, was unclear. In the first week of September, the government clarified its position, and the momentum behind business rate retention pilots is growing rapidly.
3. The government has now formally confirmed its renewed desire 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. It further issued a general invitation to other authorities to apply to become pilot pools next year, with a deadline for applications of 27th October. The Secretary of State for Communities and Local Government has subsequently written to the Chair and Vice-Chair of London Councils confirming his desire to conclude an agreement on a voluntary pilot pool for London.
4. The London Councils Executive met on 12th September and discussed the current position and feedback from Leaders' discussions over the summer.
5. This updated draft prospectus sets out how it is envisaged that the London Business Rates pilot pool would work in practice, were the 32 boroughs, the City of London Corporation and the Mayor of London to agree to form a pool in 2018-19, subject to further legal advice. It seeks to address issues raised to date by Leaders and provides minor updates to the estimated benefits of pooling, arising from increased growth projections in 2018-19 received from a number of boroughs over the summer.

B. The anticipated "terms of trade"

6. Establishing a pilot pool will require two separate agreements based on aligned and integrated strands of work:
 - 1) between London and the Government by which the government designates the pool; and
 - 2) 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

In respect of both strands, 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: see Section G below.

7. Before the Election, the previous Government established pilots in 6 areas of the country in April 2017, including London where the GLA’s level of retained business rates increased from 20% to 37%, replacing TfL transport grant and Revenue Support Grant. An expanded London pilot in 2018-19 would seek at least to replicate the common features of the deals in the other 5 pilot areas: Greater Manchester; Liverpool City Region; West Midlands, West of England and Cornwall.
8. The key features offered and expected by the government would be:
 - a. The pilot pool would be voluntary, but, in order 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, 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.)
 - c. London would, however, retain 100% of any growth in business rate income above baselines, and would pay no levy on that growth. (We currently estimate the net benefit to London would be in the region of £240 million in 2018/19; government are aware of this estimates, and have factored it into their considerations.)
 - d. In the event that 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. Furthermore, 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, the government would intervene to provide additional resources. As a result, London would be able to guarantee that no authority could lose out as a result 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 (see Section C, paragraph 14 below).
9. In addition, 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.”

10. Feedback from Leaders and discussion at Executive has indicated a desire for assurance from the Government on three key aspects of a potential agreement:
 - a. 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 we will want to see this more formally recognised.
 - b. Interaction with the “**Fair Funding**” review. As set out in the July Leaders’ Committee report, the government remains committed to undertaking a review of the formulae used to assess councils’ relative spending needs. The officer-level working group continues to meet; London Councils and GLA officers are taking an active role in its work. Within a future 100% rate retention system, the impact of that review would be to redefine the funding baselines against which authorities’ top-ups or tariffs are calculated. 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.
11. Leaders have also raised questions about the issues referred to in the Secretary of State’s letter:
 - a. The basis, purpose and potential scale of a “**Strategic investment pot**” are set out in Section D below.
 - b. **Governance arrangements** – including decision-making on the use of the investment pot – are addressed in Section E.
12. Both issues will be matters for the agreement between London authorities on the operation of the pool. However, it is clear that the government will want to see evidence of progress before it will agree to designate a London pool.

C. Founding principles for a London business rates pilot pool

13. It is proposed that there are two founding principles that would require agreement at the outset by all pooling members.

1) Nobody loses

14. 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.

15. DCLG 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, as a whole, 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 current invitation will not receive this guarantee.)
16. 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, would be taken into account in calculating the level of resources below which the guarantee would operate. For boroughs in an existing pool⁶, DCLG have also indicated that the basis of comparison would include the income due from that pool.
17. The impact of the guarantee would be to ensure that the minimum level of resources available for London, as a whole, could not be lower than it would otherwise be. In order to then 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.
18. The level of Revenue Support Grant (RSG) for each borough has been set by the 4-year settlement (to 2019-20). For each borough this would be replaced by retaining additional rates (just as the GLA has done this year). In addition Public Health Grant (PHG) and the Improved Better Care Fund (iBCF) would also be replaced by rates, leading to an adjustment of expected baselines and top-ups or tariffs (as appropriate). While the composition of each borough’s “core funding” (retained rates plus RSG, Public Health Grant and iBCF) will therefore change, the overall quantum will not. This revised position is then the baseline against which the “no detriment” guarantee is calculated. 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.

2) All members share some of the benefit

19. Growing London’s economy is a collective endeavour in which all boroughs make some contribution to the success of the whole. 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.***

⁶ Of the 33 London authorities in 2017-18 this includes Barking & Dagenham, Havering and Croydon

20. 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.
21. In addition, it may be possible to gain agreement to transfer some Central List properties located in London (for example, the London Underground network) to the London pool, thereby increasing the capacity of the pool to benefit from growth on those properties. This would be explored with government as part of negotiating the pool designation.

D. Sharing the benefits of pooling

Objectives

22. Assuming the pool generates some level of additional financial benefit, the question of how to share this will be central to any final pooling agreement. The latest estimated net benefit to participating in the pool is expected to be in the region of £240 million in 2018-19, based on London Councils' modelling using boroughs' own forecasts. This is a slight increase since the draft prospectus circulated in July, following the inclusion of updated estimates from a small number of boroughs over the summer.
23. Discussions with the Executive and informally with Group Leaders, identified four objectives that could inform the distribution of such gains:
- **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).
24. 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.

25. A simple **per capita distribution** using the latest population estimates from the ONS⁷, would recognise the requirement to work collectively to grow London's economy and ensure a share of the benefit for all authorities.
26. 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).
27. 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, in order to achieve any significant impact, such resources would need to be invested in a small number of targeted projects. Agreeing these projects would require joint decision-making arrangements of the sort outlined in Section E on Governance below. As indicated in paragraph 9, the Secretary of State has recently confirmed that he would expect to see a "significant proportion" of the benefits of pooling dedicated to this purpose.
28. Individually, these principles would drive very different distributions of the direct benefits received by boroughs. The pure "incentives" approach would obviously favour those with the highest growth rates. Distribution according to SFA and population creates a more even spread of resources, but arguably provides less incentive to promote growth, and may therefore not optimise the opportunity for London in the longer term. It is proposed that a distribution mechanism should be a blend of all four of these objectives.

Options for weighting

29. In deciding the balance between the four objectives, and therefore the relevant weighting between the measures listed above, there are countless possible variants. However, following initial discussions with Group Leaders, four potential options are illustrated below:
- 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)

⁷ The 2014-based Sub-National Population Projections for 2018

30. In each case, the **GLA share** is calculated by first deducting the proposed investment pot resources from the total available, and then dividing the remainder between the GLA and boroughs in proportion to the level of spending supported by business rates. This is in accordance with the principle previously agreed by London Councils and Mayor in our joint business rate devolution proposals to government in September 2016, and results in the GLA receiving approximately 36% of the resources distributed to authorities (see Table 1 below).
31. The potential net benefit for each borough from this model – based on the latest information available on estimated income for 2018-19 – is set out in the charts at Appendix B1 and summarised in the table below. Under the 100% pilot pool it is estimated that there might be £480m of retained growth: £240m more than under the 50% scheme (after ensuring no borough loses out as a result of participating).

Table 1 – Distribution options for estimated £240m net benefit of pooling in 2018-19

| Option | A | B | C | D |
|------------------------------|-------------|-------------|-------------|-------------|
| GLA share (£m) | £65 | £78 | £70 | £70 |
| Aggregate borough share (£m) | £115 | £138 | £123 | £123 |
| Investment pot (£m) | £60 | £24 | £48 | £48 |
| TOTAL (£m) | £240 | £240 | £240 | £240 |
| Minimum borough gain (£m) | £1.3 | £1.5 | £1.1 | £1.5 |
| Maximum borough gain (£m) | £13.1 | £15.7 | £20.7 | £10.6 |

Source: London Councils' modelling using London Boroughs' data supplied by borough finance directors or where not available by applying the latest 2017-18 forecasts to 2018-19.

32. Leaders are 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 10 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.

E. Governance

33. Leaders and the Mayor have previously endorsed the view that commitment to the collective management of devolved business rates would require unanimous support, and have identified Congress of Leaders and the Mayor as the appropriate body formally to express those commitments.
34. However, the Congress of Leaders and Mayor has no legal authority to take decisions or make binding commitments on behalf of authorities. Establishing a business rates pool in London will require each authority participating in the pool to agree to do so individually; and to also agree the terms upon which they will participate jointly with other members, including appointing a lead authority as accountable body for the pool and deciding how the pool should operate. This would include the basis of future decision-making arrangements.

35. 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.

Investment pot principles and governance

36. Whatever the proportion of resources allocated to an “investment pot”, the founding agreement will need to specify the criteria for developing proposals and the basis on which future decisions on its application to projects will be taken.
37. It is therefore proposed that the founding pool agreement includes *guiding principles* for the use of such an investment pot, for approval by all members of the pool. As such, it is proposed that investment proposals approved would:
- promote increased economic growth, and increase London’s overall business rate income; and
 - leverage additional investment funding from other sources.
38. These principles would be agreed as part of the founding agreement for the pool – and would therefore require unanimous support.
39. Subsequent decisions on the application of a strategic investment pot to proposed projects meeting those principles could be taken in the same way as the initial decision to participate: i.e. by each and every authority individually agreeing as such decisions arose. However, this could lead to a cumbersome and time-consuming process for approving relatively small individual projects.
40. One option could be for the authorities to establish a new joint committee to take these types of decisions within the operational framework unanimously agreed in establishing the pool. That joint committee could be established along the lines of London Councils’ existing arrangements, but could also include the Mayor. All authorities would have to agree that the relevant powers and functions should be delegated to a joint committee to discharge jointly on their behalf (such as the ability to decide on the application of the investment pot).
41. Those decisions could be made subject to the voting principles designed to protect sectoral, sub-regional or Mayoral interests, such as those 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. For example:
- a. Both the Mayor and a clear majority of the boroughs would have to agree
 - b. That majority could be defined as two-thirds of boroughs and the City of London, subject to the caveat that:

- c. Where all boroughs in a given sub-region⁸ disagreed, the decision would not be approved.
 - d. If no decisions on allocation can be reached, the available resources would be rolled forward within the pot for future consideration.
42. Were such a joint committee to be created, administrative support – including the consideration and evaluation of projects for presentation to the committee – could be undertaken by London Councils and GLA staff as service providers to the new joint committee. Meetings could be arranged to coincide with the existing cycle of the Congress of Leaders and the Mayor, providing bi-annual opportunities for decision-making. (NB: the discharge of functions by the joint committee on behalf of all participating authorities is distinct to the role of the lead authority set out in section F below.)
43. Legal advice will be sought to develop these proposals, to draft relevant documentation, and to help frame the decisions which would need to be taken by each authority to give effect to the intention of each of them in joining the pool and the pool's ongoing operation.

Designated areas

44. 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.
45. 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. It is not proposed that consideration or decision-making in respect of new designated areas be a matter for a new joint committee of Leaders and the Mayor. However, subject to further legal advice, and 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.

F. Accounting and reporting arrangements

Lead authority

46. 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

⁸ For these purposes, the sub-regions could 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 B2. If in the future, boroughs wished to change the initial groupings that could be achieved by agreement of the pool member authorities.

the pooled fund. The same authority – or another – could also hold any properties transferred to London from the Central List, as there is currently no legislative provision for a “regional list”. The role of the lead authority for the purposes of the designation order is separate to any administrative arrangements agreed by all members of the pool to support the operation of a joint committee of Leaders and the Mayor, should such an arrangement be established.

47. The lead authority responsibilities from existing pool agreements typically include:

- Receiving payments from pool members and making payments to central government on behalf of pool members on time.
- Maintaining a cash account on behalf of the pool and paying interest on any credit balances.
- Liaising with and completing all formal pool returns to central government.
- Administering the schedule of payments between pool members in respect of the financial transactions that form part of the pool’s resources.
- Providing the information required by pool members in preparing their annual statement of accounts in relation to the activities and resources of the pool.
- Leading on reporting to understand the pool’s position during and at the end of the financial year.

48. 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.

49. 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.

Reporting

50. In order that a the lead authority can fulfil its functions and meet its obligations as accountable body, each member authority would need to provide timely information to the lead authority as well as making timely payments to an agreed schedule.

51. Forecast (NNDR1) and outturn (NNDR3) figures will still need to be produced, as per the existing NDR Regulations 2013, in order to enable budget processes to be complete, payments determined that need to be made to the lead authority and to government (by the lead authority) and to the GLA during the course of the year as well as transfers to General Funds.

52. 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 established. This will be in September 2019 after accounts have been audited for the financial year 2018-19.

53. The NDR income figures in the 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.

The treatment of appeals

54. 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.
55. 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. So – for example – if a provision established in 2013-14 proves not to be necessary and is released during 2018-19, the borough should receive at least as much as it would have under the existing 50% scheme, plus its share of any additional retained revenues.
56. 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 borough where the provisions originated would receive at least as much as it would under the 50% 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 boroughs of setting higher (or lower) provisions. The lead authority would be responsible for administering this.
57. Further work will be undertaken to set out how the accounting and reporting requirements would work in practice, which is likely to mean either additional lines on the existing NNDR form or an additional "London pool" form administered by the lead authority. This will be confirmed as part of the final pooling agreement which will underpin the operation of the pool.

G. Timetable

58. Should Leaders and the Mayor indicate a willingness in principle to proceed in October, 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. For the reasons set out above, each of the 34 authorities must take all relevant decisions at a local level, regarding both:

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

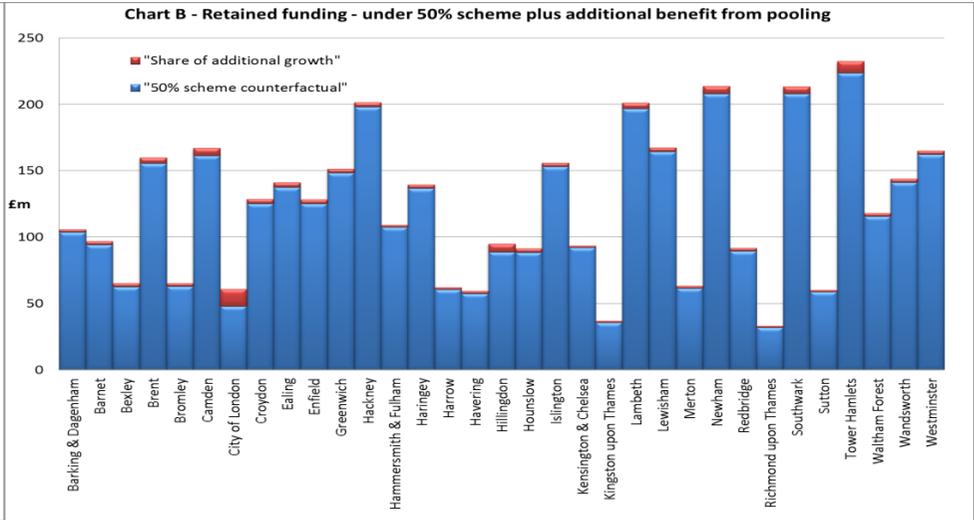
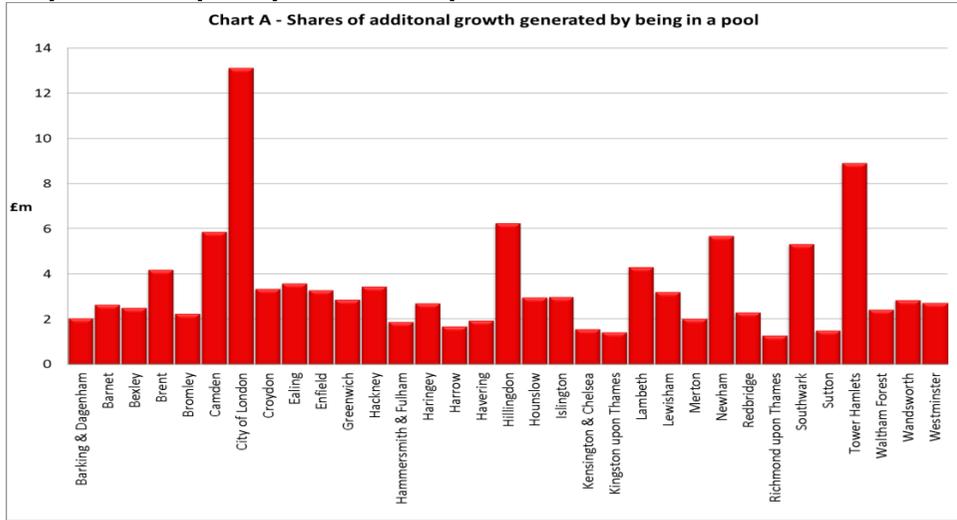
These two work streams will in practical terms, due to the proposed commencement of the pilot in April 2018, need to progress concurrently.

59. In order to facilitate this process it is proposed that 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.
60. 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.
61. Whilst this is a challenging timetable, and introduces a degree of uncertainty for both authorities and the government during the budget-setting process, London would not be unique in this regard. Any pilot pools agreed in response to the government's recent invitation for applications will not be identified before the end of October, and formal decision-making and agreement to those pilots will be subject to similar legal and constitutional constraints.
62. This timetable highlights the need for a clear expression of support for the proposals at the meetings of Leaders and the Mayor in Congress on 10th October 2017. Whilst the views of Leaders in those meetings cannot formally commit or fetter the discretion of their authorities in taking their subsequent decisions, we would expect that the views expressed would reflect the views of the authorities concerned. Neither London nor the government would be in the position to proceed without the confidence that such an expression of intent would offer.
63. This draft prospectus therefore forms the basis for internal consideration and discussion within each of the 34 prospective pooling authorities, in order for each Leader and the Mayor to be in a position to consider their authority's in principle position about the pool and to indicate this at the Congress of Leaders and the Mayor on 10th October.

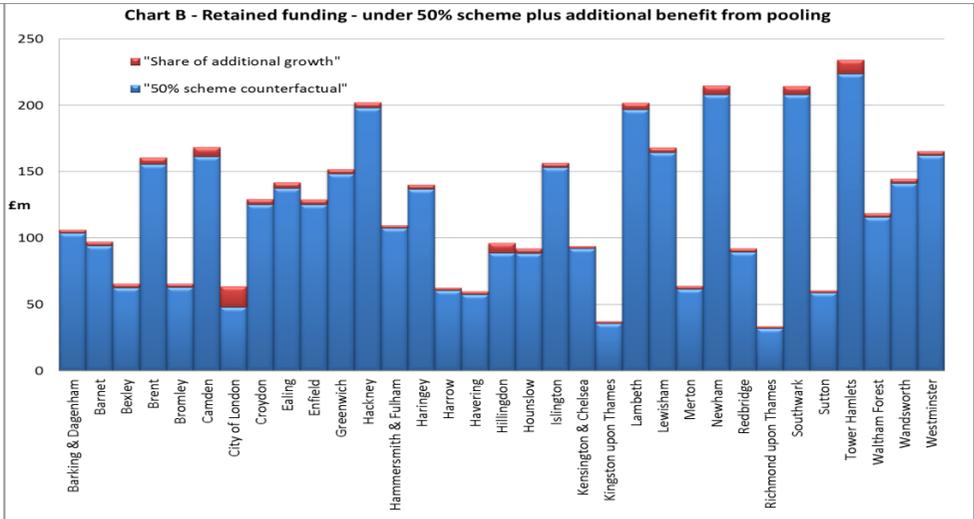
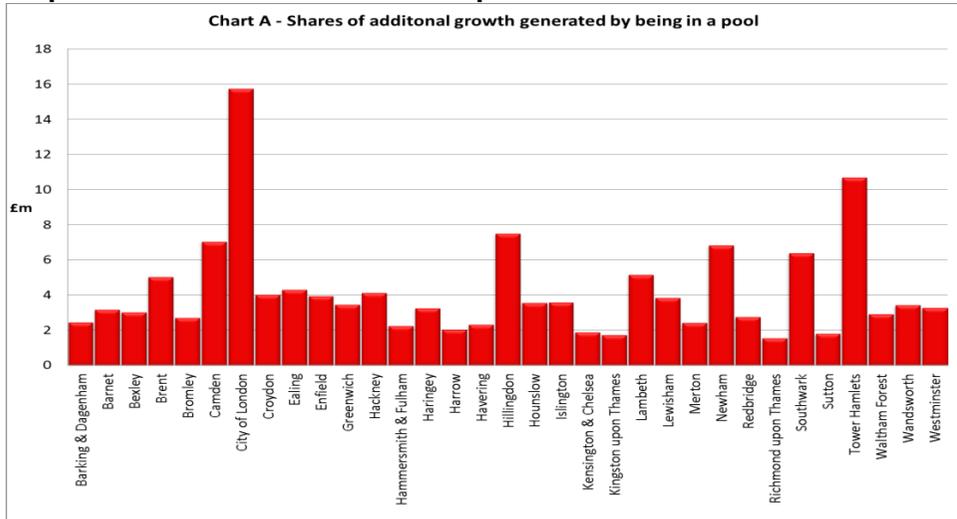
Appendix B.1 – Modelled Options

1. This appendix shows the impact of varying weightings on the overall distribution of any net additional benefit from being in the pool. It assumes the latest growth estimates for 2018-19 across London (combining where available figures from a recent survey of Treasurers and, where not available, the latest published estimates of growth in 2017-18 applied as if in 2018-19). The overall net benefit being distributed is £240m.
2. The charts below show the distribution of growth under four different scenarios for the relative weightings between the four potential distribution “pots” described above - i.e. incentives; needs (SFA); population (ONS 2018 projection) and investment pots.
 - Option A: weights each pot at 25%
 - Option B: Incentives (30%), Needs/Population (30% each) and Investment (10%)
 - Option C: Incentives (40%), Needs/Population (20% each) and Investment (20%)
 - Option D: Incentives (20%), Needs/Population (30% each) and Investment (20%)
3. For each option we have illustrated both the cash gain for each borough (red, left-hand bar charts) and the marginal gain over the retained funding under the existing 50% position (red and blue, right-hand bar charts).

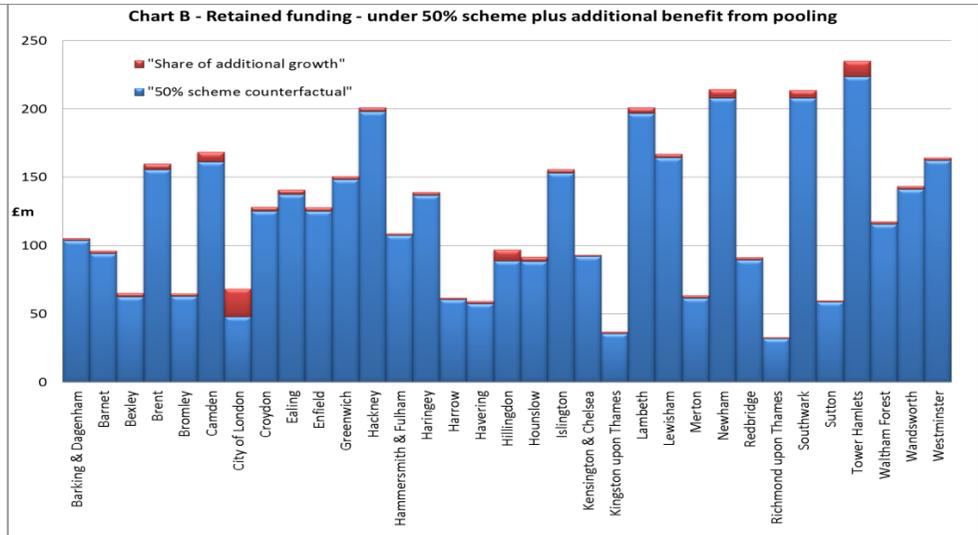
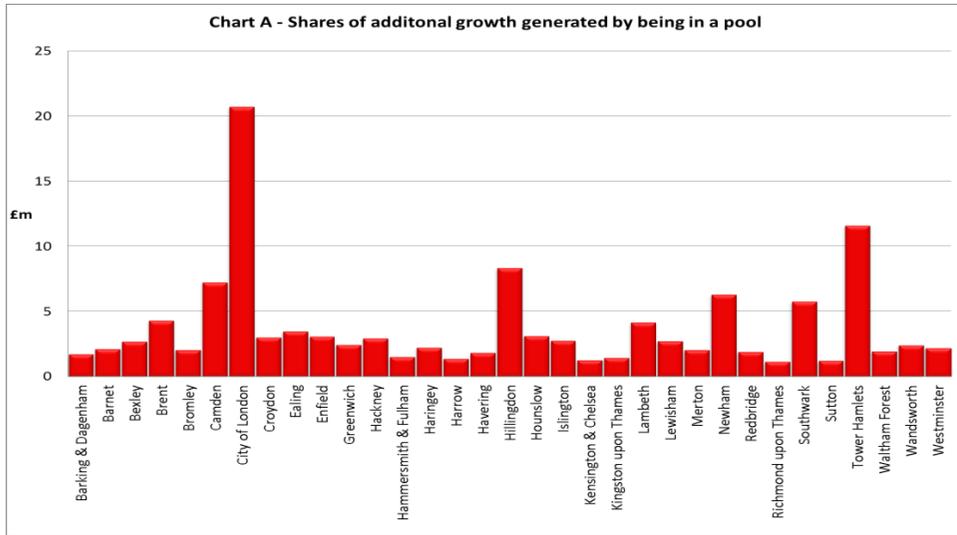
Option A: Equal split between pots – 25%/25%/25%/25%



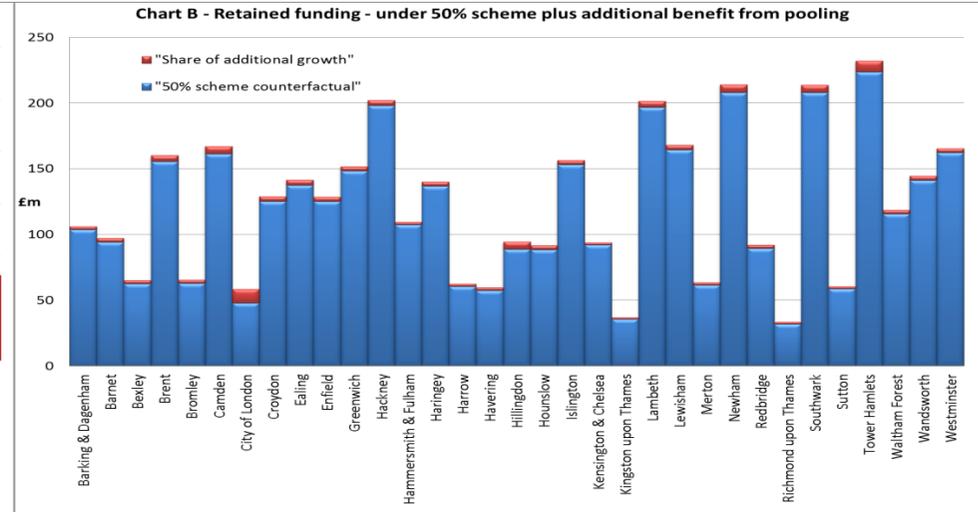
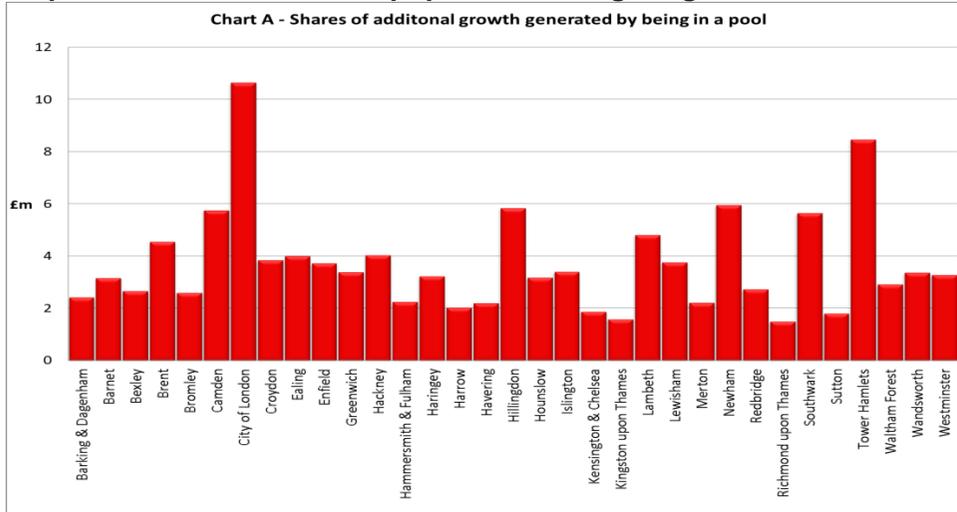
Option B: Reduced “investment pot”: 30%/30%/30%/10%



Option C: Greater “incentive” weighting: 40%/20%/20%/20%



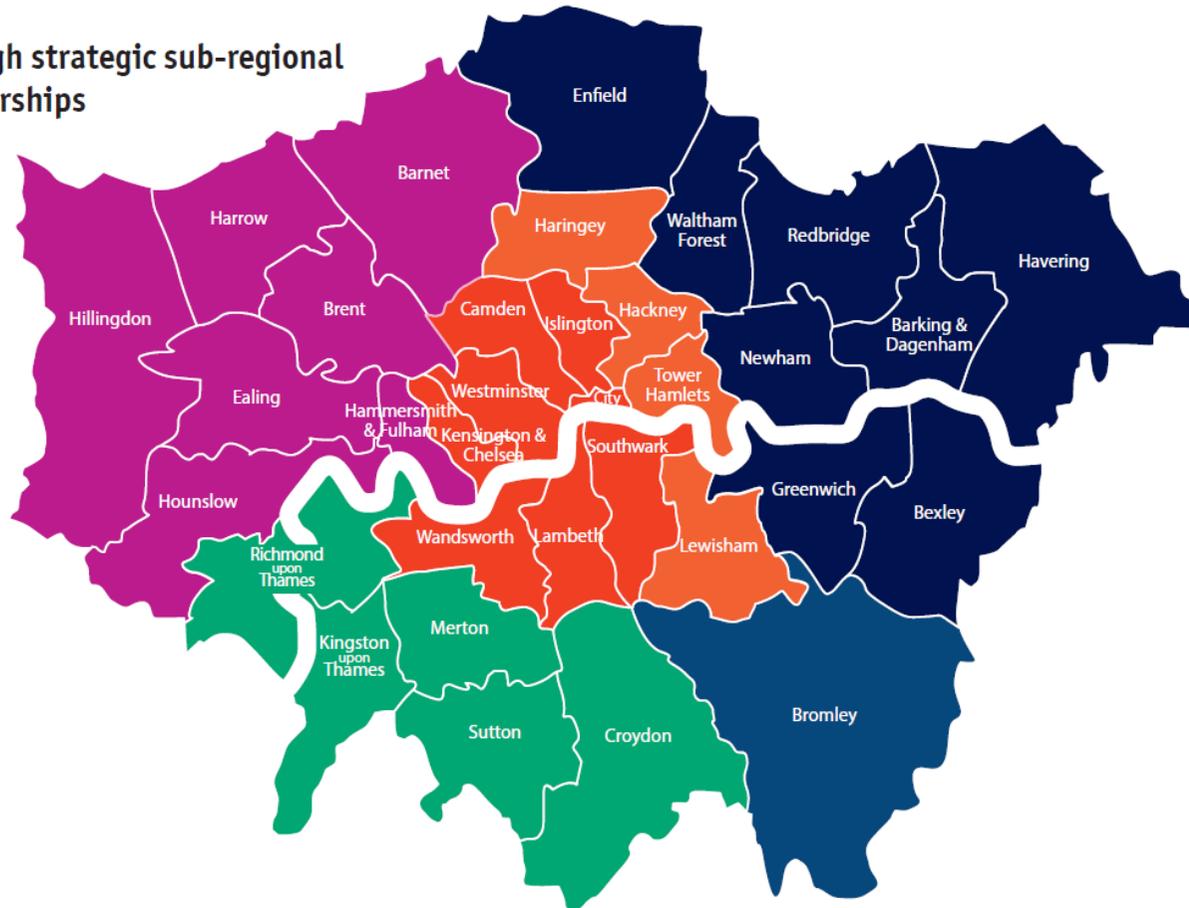
Option D: Greater "Needs/population" weighting: 20%/30%/30%/20%



APPENDIX B2:

Illustrative sub-regional arrangements for voting within a new joint committee (see Appendix A paragraph 41)

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, Havering, Newham, Redbridge | + Bromley for employment devolution |
| South London Partnership | Croydon, Kingston upon Thames, Merton, Richmond upon Thames, Sutton | |

