Report for:	**Cabinet**
Date of Meeting:	21 January 2021
Subject:	Calculation of Business Rates Tax Base for 2021-2022
Key Decision:	Yes
Responsible Officer:	Dawn Calvert, Director of Finance
Portfolio Holder:	Councillor Adam Swersky – Portfolio Holder for Finance and Resources
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	None

Section 1 – Summary and Recommendations

The Local Government Finance Act 1988 places a duty on the authority to calculate the business rates for the area annually as part of its budget setting process.

This report estimates the business rates yield for 2021-2022, of which the Council is allowed to retain an element described in more detail below. This element forms an important part of budget setting for the coming financial year.

Regulations require billing authorities to formally calculate the estimated level of non-domestic rates (NDR) it anticipates to collect for 2021-2022 and pass this information to the Secretary of State and precepting authorities by 31 January in the preceding financial year.

Central Government stopped the 75% business rates retention pilot on the 1/4/2020. As such Harrow's share is now 30% due to central government's share now being 33%, and local authorities sharing the remaining 67% local share split 37% GLA / 30% boroughs.

Recommendations:

That Cabinet considers the information given in this report and:

1. Note the approach and assumptions for the calculation of the Council's business rates yield as set out in this report.

2. Agrees that, in accordance with the Non-Domestic Rating (Rates Retention) Regulations 2013, the amount calculated by the London Borough of Harrow as its business rates yield for the year 2021-2022 shall be £15.346m as shown in the table below.

		£m
	Projected NDR Income 2021/22	51.152
Less	Payable to DCLG (33% Central Share)	(16.880)
Less	Payable to the Greater London Authority (37%)	(18.926)
Equals	Amount to be retained by Harrow (30**%**)	***15.346***

3. Agree that authority be delegated to the Council's Chief Finance Officer (section 151 officer), following consultation with the Portfolio Holder for Finance and Resources, to submit the notification of the calculation of the estimated Non-Domestic Rates income to the Secretary of State and the Greater London Authority (GLA) by 31 January 2021 or other date as may be prescribed.

4. Agrees that the Council's Chief Finance Officer (section 151 officer) be authorised, following consultation with the Portfolio Holder for Finance and Resources, to submit revised figures (from those above) to the Secretary of State and GLA, if further clarification is received from DCLG on the financial impact of the proposed changes to the authority and how this is to be calculated.

Reason: (for recommendations)

To fulfil the Council's statutory obligation to provide estimates and calculations in relation to NDR for 2021-2022.

Section 2 – Report

Introduction

2.1 The Local Government Finance Act 2012 introduced the Business Rate Retention (BRR) scheme from 01 April 2013.

2.2 Following the 2017 Autumn Budget, a 100% Business Rates retention pilot was introduced for 2018/19. From 1 April 2018 London authorities retained 100% of their non-domestic rating income. Harrow retained 64% and, the GLA 36%. The scheme provided for non-domestic rates collected by a billing authority to be shared between it, its major precepting authorities and central government. It also provided that certain sums were to be treated as being outside the scheme. These sums were retained in their entirety by the billing authority (or by the billing authority and some, or all, of its major preceptors).

2.3 For the financial year 2019/20 the 100% pilot was changed to a 75% retention scheme which reduced the local authority share to 48%. For the financial year 2020/21 and future years, Government has stopped the London Pool pilot altogether and the local authority's share reverted back to 30%.

2.4 However the Leaders' Committee agreed to continue to pool business rates across all 34 London authorities in 2020/21 as this had strategic advantages for London although Harrow gained a much smaller amount of extra income from growth compared to what it received in 2019/20.

2.5 Due to the impact of the pandemic and a worsening economic position, it is looking likely that the pool would be in deficit, meaning some authorities would be worse off than if they weren't in the pool next year. On the 8th of January a report was sent, via the urgency procedure, to the Elected Officers of London Councils which recommended the discontinuation of the London business rates pool in 2021-22. It recommended that a joint letter, from London Councils, the GLA and the City of London, as the lead authority, be sent to MHCLG prior to the statutory deadline to indicate the collective desire of the 34 London pool members to discontinue the pool in 2021-22, stressing that while there is continued commitment to the principles of pooling, the financial case is not strong enough to make the pool viable next year. The confirmation letter was sent on the 13th of January confirmation discontinuation.

As such Harrow will not be participating in the London Pool in 2021/22.

2.6 The statutory framework requires a billing authority, before the beginning of a financial year, to forecast the amount of business rates that it will collect during the course of the year and, from this, to make a number of allowable deductions in order to arrive at a figure for its non-domestic rating income. The calculation that Harrow makes before the start of the financial year determines how much Harrow must pay to central government and its major precepting authorities during the course of the year.

Background

2.7 Under the Local Government Finance Act 1988, as amended by the Local Government Finance Act 2012, regulations set out detailed formulae for the calculation of an annual estimated Business Rates. The starting point is the amount payable by businesses to the authority under s.43 and 45 of the 1988 Act in the preceding year. An estimate is then calculated taking into account adjustments for RPI, transitional protection payments, collection costs and disregarded amounts. At the end of each year the authority must arrange for calculations and amounts to be certified in accordance with arrangements set out by the Secretary of State.

2.8 Income raised will, for the financial year 2021/22, be allocated as follows; Harrow retains 30%, the GLA's retains 37%, and the Ministry of Housing, Communities and Local Government (MHCLG) retains the balance, 33%.

2.9 Throughout the year, the authority retains a fixed amount and pays a fixed amount to preceptors. Any difference between forecast amounts and final outturns will result in a surplus, or deficit on the billing authority's Collection Fund. Any such surplus or deficit is shared between the parties to the Pool and has to be taken into account as part of the future year's budget process.

Harrow's National Non-Domestic Rates (NDR) retained amount for 2021/22

2.10 The forecast in this report takes into account the latest data available including an estimate of likely reliefs, reductions due to appeals and an estimate of likely losses due to some debts being uncollectable.

2.11 The forecast is required to be formally notified to MHCLG and preceptors. This is done by billing authorities having to complete a MHCLG business rates return estimating the likely business rates. The return takes the form of a formal National Non-Domestic rates return 1 (NDR1) and uses the data used for the Council's Business Rates Tax Base estimate.

2.12 The calculation of Harrow's NDR income figure for 2021/22 and for the formal outturn is therefore as follows;

Gross Rates Yield: Total Rateable value x NDR rate multiplier
Less Mandatory Reliefs
Less Discretionary Reliefs
Less estimated losses on Collection
Less Allowance for costs of collection (as set by MHCLG formula)
Plus or Minus Rate Retention Adjustments for: Change in Rateable Value due to growth or reduction in property numbers Adjustment due to Appeals
Net Business Rates Yield and base of the calculation of central and local shares

2.13 Table 1 – Projected NDR Income for Financial Year 2021/22

Using current year data (2017 List @ 30/12/2020)

	£m		
Gross Rateable value - Rating List 2017	137,839,596	a	
Small Business Rate Multiplier 2020/21	0.499	b	
Inflation Assumption / CPI @ Sept 2020	0.00%	c	
Assumed Small Business Rate Multiplier 2021/22	0.499	d	b x c(+b)
Notional gross yield figure	**68,781,958**	e	a x d
Less In year RV fluctuations - 1.00%	**0**		
Expected Notional gross yield figure	**68,781,958**	e	
Losses due to Small business rate relief	6,880,000	f	
Change in notional gross yield	0.00%	g	
Projected small business rate relief 2021/22	6,880,000	h	f x g
Losses due to Empty property exemptions	1,000,000	i	
Change in notional gross yield	0.00%	j	
Projected Empty property exemptions 2021/22	1,000,000	k	i x j
Losses due to Mandatory relief	6,300,000	l	
Change in notional gross yield	0.00%	m	
Projected Mandatory Relief 2021/22	6,300,000	n	l x m
Losses due to Discretionary relief	55,000	o	
Change in notional gross yield	0.00%	p	
Projected Discretionary Relief 2021/22	55,000	q	o x p
Additional Yield generated from SBR supplement	-500,000		
Less Cost of collection	238,978		
	-261,022	r	
Projected contribution to the pool	**54,807,980**	s	e-h-k-n-q-r
Losses in collection 2%	1,096,160	t	
Losses due to appeals	2,560,000	u	
Losses due to Enterprise Zones	0	v	
Gain due to Renewable Energy schemes	0	w	
Gain due to New Developments	0	x	
Net Transitional relief (gain) - **IGNORE**	0	y	
Net contribution to the pool	51,151,821	**z**	**s- t-u-v-w-x**
Less Other Reductions - DCLG S31 Initiative 1 Retail Relief	0		
Contribution to pool	**51,151,821**		
Less Central Share (33% to Government)	-16,880,101		
Less GLA Transport (37%)	-18,926,174		

NDR Income retained = 30%		**15,345,546**
Add estimated s31 Grant re Reliefs initiatives *		£2,500,000
	Overall Retention & s31 Grant	**17,845,546**

**** MHCLG has decided not to increase the business rates multiplier by CPI FOR 2021/22 and instead determined that it will remain as per previous year**

***Section 31 grants are given to LA's to compensate them for non-statutory rate relief schemes that MHCLG imposes on Councils. It is therefore imperative that the two are monitored together to ensure the overall quantum from the 2 income streams remains static.**

Reasons for a Lower / Higher Retention Amount in 2021/22

2.14 Historically, rateable value generally reduces annually in Harrow, this being a trend that has existed locally for several years and one that is likely to continue. This is because Harrow's tax base is suffering losses which are not being offset by growth.

The reasons for the changes in yield are mainly;

- Tax Base is being eroded by commercial property being converted to domestic accommodation or being demolished and awaiting domestic properties being built
- More occupiers claiming Small Business Rates Relief (SBRR) and Retail Relief
- More occupiers claiming 80% mandatory charitable relief (eg school Academies')
- Insufficient new commercial properties being built to offset losses, &
- Collection rates being impacted by the Covid19 pandemic

2.15 The tax base used to calculate the 2021/22 rate retention amounts has not this year benefited from the September 2020 CPI which is used to calculate next year's rating multiplier. This is because MHCLG, has for 2021/22, not applied inflation to the multiplier.

Procurement Implications

There are no procurement implications arising from the Recommendations of this report.

Legal Implications

Section 31B of the Act requires the local authority to set a council tax sufficient to meet its expenditure by taking into account other sources of income such as government grants and non-domestic rates. The business rate outturn has a direct bearing on the Council's budget and the Council Tax set for 2021-2022. The approval of the business rates yield is therefore a key action in ensuring the Council meets its statutory duty to balance its budgets.

Schedule 7B of the Local Government Finance Act 1988, as amended, reserves the right for the Secretary of State to direct billing authorities to make calculations and supply information and in the absence of such a direction, to make regulations imposing similar requirement. For the year commencing on 1st April 2021, regulations require that on or before 31 January in the preceding year, billing authorities must estimate the amount of NDR income, calculate the amount of the central share, calculate the amount for each precepting authority's share, estimate the amount of qualifying relief and notify the Secretary of State and relevant precepting authority of these estimates or calculations. This will be done via a form known as NNDR1. The Government has set out the process for this in the Non-Domestic Rating (Rates Retention) Regulations 2013. A delegation is also included to enable the Council's Chief Finance Officer (section 151 officer) to fulfil the notification requirements described above.

At present the regulations and legislation do not appear to require decisions to be taken at a particular level within the Council. In the absence of any specific statutory requirement as to decision making, it is necessary to take account of the Functions and Responsibilities Regulations 2000 which set out decisions which can and cannot be taken by the Executive.

Under the Council's constitution, approving the budget (including setting the Council Tax) is reserved to full Council. Budget is defined as allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax including decisions relating to the control of the Council's borrowing requirement, the determination and control of its capital expenditure and the setting of virement limits. Calculating the business rates estimates is not part of this overall budget approval, although the estimate used will be taken into account when considering the Council's financial position. It is appropriate for this decision to be taken by Cabinet in the same way as the council tax base is a Cabinet decision.

Article 13 of the Council's Constitution states a key decision is an executive decision which:

(i) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

(ii) is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the Borough.

A decision is significant for the purposes of (i) above if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question.

Financial Implications

The retained amount for Harrow regarding Business Rates is therefore determined to be **£15.346m,** which is 30% of the estimated business rates to be retained. This estimated NDR income figures will become the actual NDR income for 2021/22 and will be used in setting the 2021/22 budget.

Collection rates have held up well so far in 2020/21 and additionally Harrow has provisions for bad debt to 31/3/20 of 100%. As such the tax base reflects current performance whilst building in over £1m for potential bad debt in 2021/22 should collection performance be further hampered by the current pandemic.

The estimated amount will be reflected in the Council's Final Revenue Budget for 2021-22. The actual NDR income received will not actually be available to the authority as it will go directly into the collection fund. At the end of the year any surplus or deficit in the collection fund will be taken into account as part of future year's rate retention calculations. Any risk will therefore be borne, in the first instance, by the collection fund rather than the general fund.

Performance Issues

There is the potential that collection rates will be lower than anticipated in the tax base should the current pandemic continue, and the economy is affected by further lockdowns or the impacts of Brexit. However as already stated, any immediate risk will be borne, in the first instance, by the collection fund, which will give the authority time to address matters should a worse scenario than planned for materialise.

Environmental Impact

None

Risk Management Implications

Whilst Officers have estimated the tax base as accurately as possible within the data available, there are risks which should be considered as set out in the table below.

Risks included on corporate or directorate risk register? Yes - as part of MTFS

Separate risk register in place? No

The relevant risks contained in the register are attached/summarised below. Yes

The following key risks should be taken onto account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG
1.Rate Retention calculation is	Processes in place to validate tax base calculations. Calculation rules are mainly	

inaccurate	mandated by regulations although it also relies on Officers best estimates and local Harrow knowledge regarding commercial hereditaments.	
2.Expected Collection rate not achievable	A strict recovery program in place and BDP provisions for arrears are currently well provided for which would mitigate lower collection rates by up to an additional 2% in the short term.	
3.Losses specifically due to the pandemic	Facts as we know them taken into account and best estimates based on historical and current knowledge used as a guide. However, we are aware that specific sectors could be affected by substantial lower valuations due to the pandemic, for example office space could attract a 20% reduction in rateable value due to social distancing measures) and lower yield in the medium term. We have £1.9m in unused Appeal provisions but have allowed an additional £2.5m which will increase the overall provisions in excess of £4.4m to mitigate potential risk.	
4.Volatility in the rating list	The authority has no certainty regarding detrimental changes to the list. There are many potential changes that could occur (as below) and therefore the estimates rely on historical knowledge and officers best estimate. •As specific levels of Appeals cannot be anticipated, •Property demolitions may occur which were not anticipated, •There may be Valuation Officer review of assessments which give rise to reductions in rateable value, especially risky due to the pandemic and the need for values to reflect lower occupancy specifically re office space •Substantial backdated RV reductions may occur which were not anticipated, •Rating is “reactive”; appeals served now may not be considered and resolved for a number of years, and, •Large hereditaments could have a disproportionate effect on Harrow, for example, heavy industrial plants etc, whose assessments may be challenged on multiple occasions through the life of the Rating List.	

Equalities implications

None

Corporate Priorities

The Business Rates Baseline allows the Council to raise local funding which is fundamental in supporting all corporate priorities as Business Rates Retention is a key element of the Council’s overall budget.

Section 3 - Statutory Officer Clearance

Statutory Officer: Sharon Daniels
Signed on behalf of the Chief Financial Officer
Date: 3 December 2020

Statutory Officer: Jabou Kinteh
Signed on behalf of the Monitoring Officer
Date: 10 December 2020

Chief Officer: Charlie Stewart
Signed off by the Corporate Director
Date: 3 December 2020

Head of Procurement: Nimesh Mehta
Signed by the Head of Procurement
Date: 4 December 2020

Head of Internal Audit: Susan Dixson
Signed by the Head of Internal Audit
Date: 8 December 2020

Mandatory Checks

Ward Councillors notified: NO, as it impacts on all Wards

EqIA carried out: NO

EqIA cleared by: N/A

Section 4 - Contact Details and Background Papers

Contact: Fern Silverio (Head of Service – Collections & Housing Benefits), Tel: 020-8736-6818 / 07949 153439 / email: fern.silverio@harrow.gov.uk

Background Papers: None

Call-in waived by the Chair of Overview and Scrutiny Committee - NO