Report for:	**Cabinet**
Date of Meeting:	24 January 2022
Subject:	Calculation of Business Rates Tax Base for 2022-2023
Key Decision:	Yes
Responsible Officer:	Dawn Calvert - Director of Finance, Resources Directorate
Portfolio Holder:	Councillor Natasha Proctor – Portfolio Holder for Finance and Resources
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	None

Section 1 – Summary and Recommendations

1.1 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.

1.2 This report estimates the business rates yield for 2022-2023, 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.

1.3 Regulations require billing authorities to formally calculate the estimated level of non-domestic rates (NDR) it anticipates to collect for 2022-2023 and pass this information to the Secretary of State and precepting authorities by 31 January in the preceding financial year.

1.4 Central Government stopped the 75% business rates retention pilot on the 1/4/2020. As such Harrow's share is now 30% with central government's share being 33%, and the GLA 67%.

Recommendations:

That Cabinet considers the information given in this report and:

1.5 (a) Notes the approach and assumptions for the calculation of the Council's business rates yield as set out in this report.

(b) 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 **£12.881m** as shown in the table below.

		£m
	Projected NDR Income 2022/23	42.937
Less	Payable to DLUHC (33% Central Share)	(14.169)
Less	Payable to the Greater London Authority (37%)	(15.887)
Equals	Amount to be retained by Harrow (30**%**)	***12.881***

(c) Agrees that the Council's Chief Finance Officer (section 151 officer), following consultation with the Portfolio Holder for Finance and Resources, be authorised 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 2022 or other date as may be prescribed.

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

(e) Agrees that the Council's Chief Finance Officer (section 151 officer), following, consultation with the Portfolio Holder for Finance and Resources, be authorised to implement the announced Autumn Budget business rates measures, namely a new retail relief for eligible retail, hospitality and leisure properties and a Transitional Relief (TR) scheme for small and medium businesses, and an extension to the Supporting Small Business (SSB) scheme for the financial year 2022/23, once the detail is known. This will also involve the Director of Finance exercising discretion under s47 of the Local Government Finance Act 1988, (as amended) in order to introduce / operate the scheme.

Reason:

1.6 To fulfil the Council's statutory obligation to provide estimates and calculations in relation to NDR for 2022-2023.

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 has 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, there was risk that the pool would be in deficit, meaning some authorities would be worse off than if they weren't in the pool next year. As such for 2021/2 the Elected Officers of London Councils recommended the discontinuation of the London business rates pool in 2021-22. This decision continues in respect of 2022/23 financial year and as such Harrow will not be participating in the London Pool for the year 2022/23.

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 2022/23, be allocated as follows; Harrow retains 30%, the GLA's retains 37%, and the Department for Levelling Up, Housing & Communities (DLUHC) 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 2022/23

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 DLUHC and preceptors. This is done by billing authorities having to complete a DLUHC 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 2022/23 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 DLUHC 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 2022/23

Projected NDR Income calculation for 2022/23

Using current year data (2017 List @ 29/12/2021)			
	£m		
Gross Rateable value - Rating List 2017	135,431,236	a	
Small Business Rate Multiplier 2021/22	0.499	b	
Inflation Assumption / CPI @ Sept 2021	0.00%	c	
Assumed Small Business Rate Multiplier 2022/23	0.499	d	b x c(+b)
Notional gross yield figure	**67,580,187**	e	a x d
Less In year RV fluctuations - 1.00%	**0**		
Expected Notional gross yield figure	**67,580,187**	e	
Losses due to Small business rate relief	7,083,600	f	
Change in notional gross yield	0.00%	g	
Projected small business rate relief 2022/23	7,083,600	h	f x g
Losses due to Empty property exemptions	1,013,896	i	
Change in notional gross yield	0.00%	j	
Projected Empty property exemptions 2022/23	1,013,896	k	i x j
Losses due to Mandatory relief	6,333,819	l	
Change in notional gross yield	0.00%	m	
Projected Mandatory Relief 2022/23	6,333,819	n	l x m
Losses due to Discretionary relief	55,000	o	
Change in notional gross yield	0.00%	p	
Projected Discretionary Relief 2022/23	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	**53,354,894**	s	e-h-k-n-q-r
Losses in collection 2%	1,067,098	t	
Losses due to appeals	1,850,000	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	50,437,796	**z**	**s- t-u-v-w-x**
Less Other Reductions - DCLG S31 Initiative 1 Retail Relief	7,500,000		
Contribution to pool	**42,937,796**		
Less Central Share (33% to Government)	-14,169,473		
Less GLA Transport (37%)	-15,886,984		
NDR Income retained = 30%	**12,881,339**		

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

*Section 31 grants are given to LA's to compensate them for non-statutory rate relief schemes that DLUHC 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. For the 2022/23 the following cumulative amounts feed into the budget process.

NDR Income retained = 30%	12,881,339
Add estimated s31 Grant re Reliefs initiatives *	£4,750,000
Overall Retention & s31 Grant	**£17,631,339**

Reasons for a Lower / Higher Retention Amount in 2022/23

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.

2.15 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

2.16 The tax base used to calculate the 2022/23 rate retention amounts has not this year benefited from the September 2021 CPI which is used to calculate the following financial year's rating multiplier. This is because DLUHC, has for 2022/23, not applied inflation to the multiplier.

Implementation of Further reliefs for the period 1/4/22 to 31/3/23 as announced in the Autumn Budget

2.17 At the Budget announcement on 27 October 2021, the Chancellor also stated that the Government would provide a package of business rates measures for 2022/23 to support businesses in England, namely

1. A new relief for eligible retail, hospitality and leisure properties with 50% relief on rates bills up to £110,000 per business
2. The extension of the current Transitional Relief and Supporting Small Business schemes

3. A freezing of the multipliers at 49.9p (small business multiplier) and 51.2p (standard multiplier)

4. On 15 December 2021, the Department for Levelling Up, Housing & Communities (DLUHC) published guidance announcing a new relief, the COVID-19 Additional Relief Fund (CARF) which is intended to be allocated, (following passing of the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill), to ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact and not eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport.

2.18 With regards point 1 - The scope of the discount for 2022/23 will return to pre-Covid-19 eligibility for retail properties. Hospitality and leisure properties will continue to remain in scope. Further details on the eligibility for the scheme will be included in future guidance.

2.19 With regards point 2 -The government will therefore extend TR for small and medium businesses, and the SSB scheme, for 1 year, restricting bill increases to 15% for small properties (up to £20,000 RV) and 25% for medium properties (below £100,000 RV), subject to subsidy control limits.

2.20 With regards point 4 – The Government has allocated £3.172m to Harrow who will need to administer and award funds directly to eligible businesses.

2.21 Harrow Council will be expected to use its discretionary relief powers (under section 47 of the Local Government Finance Act 1988 as amended) to grant the discounts set out in points 1, 2 & 4 above, in line with the relevant eligibility criteria. No new legislation will be required to deliver the scheme.

2.22 Cabinet is therefore requested to authorise the Director of Finance to implement the prescribed support for businesses, once guidance is issued, including the writing of policies, making changes to the now defunct Discretionary Business Rates Retail Relief Scheme (which operated for 2019/20, 2020/21 & 2021/22), as well as implementing a TR scheme for small and medium businesses, the SSB scheme and the CARF scheme in line with guidance issued or to be issued in the future.

2.23 Central government will fully reimburse Harrow for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). The Government expects local government to grant relief to qualifying ratepayers.

Legal Implications

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 2022, 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

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 2022-2023. The approval of the business rates yield is therefore a key action in ensuring the Council meets its statutory duty to balance its budgets.

The retained amount for Harrow regarding Business Rates is therefore determined to be **£12.881m,** which is 30% of the estimated business rates to be retained. This estimated NDR income figures will become the actual NDR income for 2022/23 and will be used in setting the 2022/23 budget.

Collection rates have been lower than expected in 2021/22 but Harrow has provisions for bad debt to 31/3/21 of 90%. As such, the tax base reflects current performance whilst building in over £1m for potential bad debt in 2022/23 should collection performance be further hampered by the continuing pandemic's impact on the economy.

The estimated amount will be reflected in the Council's Final Revenue Budget for 2022-23. 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.

Relief schemes announced in the Autumn budget will be fully compensated by s31 grants. As such where Harrow awards additional schemes under its discretionary powers which have been mandated by Central Government, and in turn its business retention take is reduced, this will be fully offset by 100% compensatory grant so the Council is no worse off.

Performance Issues

There is the potential that collection rates will be lower than anticipated in the tax base should the economy continue to be impacted by the on-going pandemic. 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 Implications

There are no direct environmental impacts anticipated from the recommendations contained within this report.

Data Protection Implications

There are no direct data protection impacts anticipated from the recommendations contained within this report.

Procurement Implications

There are no procurement impacts anticipated from the recommendations contained within this report.

Risk Management Implications

Risks included on corporate or directorate risk register? **No**
Yes - as part of MTFS

Separate risk register in place? **No** but part of overall budget risks

The relevant risks contained in the register are attached/summarised below. **N/A**

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.

Risk Description	Mitigations	RAG
1.Rate Retention calculation is inaccurate	Processes in place to validate tax base calculations. Calculation rules are mainly mandated by regulations although it also relies on Officers best estimates and local Harrow knowledge regarding commercial hereditaments.	Green
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 1-2% in the short term.	Amber
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. We have £2m in unused Appeal provisions and these will be regularly reviewed to ensure any potential new risks are mitigate against.	Amber
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	Amber

	may be challenged on multiple occasions through the life of the Rating List.	

Equalities implications

There are no Equalities implications from this report.

Council Priorities

- **Thriving Economy** - 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: Dawn Calvert
Signed off by the Chief Financial Officer
Date: 04 January 2022

Statutory Officer: Kaniz Ali
Signed on behalf of the Monitoring Officer
Date: 06 December 2021

Chief Officer: Charlie Stewart
Signed off by the Corporate Director
Date: 26 November 2021

Head of Procurement: Nimesh Mehta
Signed off by the Head of Procurement
Date: 29 November 2021

Head of Internal Audit: Susan Dixson
Signed off by the Head of Internal Audit
Date: 14 January 2022

Mandatory Checks

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

EqIA carried out: NO - This is a technical financial report which does not require an EqIA.

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, email: fern.silverio@harrow.gov.uk

Background Papers:

- The Local Authorities (Funds) (England) Regulations 1992 http://www.legislation.gov.uk/ukpga/1992/14/contents
- The Non-Domestic Rating (Rates Retention) Regulations 2013 http://www.legislation.gov.uk/ukdsi/2013/9780111532959/contents

Call-in waived by the Chair of Overview and Scrutiny Committee

NO