Executive Summary
A new system for dealing with income from business rates (the business rate retention scheme) was introduced by the Government from 1 April 2013. Under the business rates retention scheme, local authorities are able to keep a proportion of the business rates that they collect. However the new system is complex with tariffs, top-ups, safety nets and levies.

Within the scheme, authorities can formally seek designation as a ‘pool’. This allows them to pool their resources, and ensures that they are treated as if they were a single entity for the purposes of calculating tariffs, top-ups, levies and safety net payments. This approach has several potential advantages:

- The pool may be financially better off than the individual Councils. The benefit occurs as the pool’s levy rate on business rate growth is lower than the individual Councils rates. This is explored in more detail below;
- The pool may be able to mitigate some of the risks associated with the new system (such as local business relocating between Council areas);
- Pooling the rates income from growth across a wider and economically coherent area ensures that all authorities can benefit from economic growth across the wider area.

However, there are risks. If business rate growth is low, a pooled authority may not trigger a safety net payment from Government which it would receive if it did not pool. Ways to mitigate that risk are explored in the report. The plan will need an agreement in place on how to govern the Pool.

Recommendations
(1) The County Council shall participate in a business rate pool in 2015/16 with the aim of retaining additional local business rates which would otherwise be paid to central government via a levy on growth should the financial and risk considerations (detailed in the report) make the case compelling at the deadline for a commitment.

(2) The County Council should join with those local District and Borough Councils interested and where, in their view, it makes most financial and economic sense, submit a proposal to pool by 31 October deadline set by the Department for Communities and Local Government (DCLG) for
Government’s consideration.

(3) The Executive Director Corporate Resources and Services, in consultation with the Cabinet Member for Finance, be authorised to discuss and formalise an agreement between participating councils, including the mechanism to allocate the extra funds.

Background and Context

1. A feature of the new business rates system is the ability of neighbouring authorities to form a local Pool for their business rates, where Government agrees it makes economic sense to do so.

2. The key advantage of a Pool is it can enable more of any business rates growth to be retained locally than if each authority was treated as ‘stand-alone’ under the business rates funding system. The trick is to avoid payment of as much of the ‘levy’ for high growth business rate growth as possible. However, it isn’t completely risk free and not all authorities who could pool have done so. 18 pools have been formed nationally in 2014/15 to exploit this opportunity, with 111 local authority members.

3. Councils in West Sussex first considered Pooling for 2013/14. At that time, the risks appeared to outweigh the gains and given the lack of familiarity with the new business rate funding system it was prudent not to pursue the option. Subsequently, councils have a greater understanding of the new system and with improvements to the economy most Districts/Boroughs are now expecting reasonably good gains to their business rates, beyond the target set by Government, and so it offers a likely gain.

Consultation

4. Consultation has occurred with the Districts and Boroughs in the proposed Pool – Arun, Adur/Worthing and Chichester and with the other West Sussex Districts/Boroughs.

Proposal

5. To understand the pros/cons of Business Rate pooling, the workings of the new system need to be explained in a little detail:

- The share paid to central government from business rates collected is 50%. Therefore 50% of business rates is retained locally and allocated 40% Districts, and 10% County.

- In two-tier areas one of the consequences of this is that County Councils are “top up” authorities as their modest share of business rates income (at 10%) falls a long way short of their assessed funding needs (or baseline funding level).
• Districts, on the other hand, will be subject to paying a ‘tariff’ as their business rates income (at 40%) greatly exceeds their assessed funding requirement.

• Crucially, the future growth in business rates income is also subject to levies, which are applied to tariff authorities only i.e. only to Districts/Boroughs and not Counties in two-tier areas. A levy sum acts to limit the financial gain from growing business rates with the levy being paid over to the Government. This is central to how a pool can potentially provide a financial benefit.

• The Government first proposed making a levy proportional to the baseline funding, so that there was a 1:1 relationship between the growth in business rates and the extra funds an authority could benefit from i.e. if business rates grew by 10% (say), the District should benefit by having only a 10% growth in its income. This produced a situation where Crawley would be levied at some 93% of any growth, as their 40% share is such a high allocation of business rates, and they have a small assessed spending baseline. Subsequently, Government decided to cap the levy at a maximum of 50%.

• A safety net also applies so that Government provides a funding guarantee that no authority will fall more than 7.5% below its baseline funding level.

How a Pool would work

6. In essence where authorities form pools the system works in exactly the same way as for individual authorities, except that government treats the group as one authority, aggregating their business rates growth, their levy payment and safety net entitlement.

7. Members of a business rate pool combine their funding calculations under the business rate scheme, effectively adding their numbers together for all elements of the funding calculation, such as the tariff and top-ups. The benefit to be gained is that collectively, it will a produce a lower percentage Levy calculation. But precisely how much lower will vary between areas because their business rate sum varies.

8. Appendix 1 is provided to show why Arun DC on its own is a Tariff authority (and must therefore pay a levy of 50% on growth above its business rates baseline), but when combined with West Sussex CC becomes a Top up authority paying no levy - which is crucial to pooling and securing a financial gain. Essentially the County’s position as a top up authority provides ‘headroom’ which cancels out the Tariffs Districts/Boroughs would pay. If the pool in aggregate remains a top up authority, it pays no levy at all on its business rates because it cannot have ‘excessive growth’. As shown at Appendix 1 only a tariff authority faces a levy charge, as the levy only takes place when growth in the business rates would produce an even higher growth %age in funding to an authority i.e. ‘disproportionate growth’.
9. The table below shows how a simple Pool would work, with just two authorities. It shows the result for Arun DC and WSCC on an individual basis, and the result for Arun if Pooled with West Sussex. The table is a simplified version of the calculations involved.

**TABLE 1: HOW POOLING DELIVERS A GAIN**

<table>
<thead>
<tr>
<th>Authority Type</th>
<th>2015/16 Forecast Rates Income</th>
<th>Individual Authority Rates Income</th>
<th>Rates under/over Funding Baseline</th>
<th>Levy</th>
<th>Paid to Govt</th>
<th>Funds Retained</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arun Tariff</td>
<td>£5.826</td>
<td>£3.358</td>
<td>£2.469</td>
<td>50%</td>
<td>£1.234</td>
<td>£1.234</td>
</tr>
<tr>
<td>West Sussex CC</td>
<td>Top up</td>
<td>£73.677</td>
<td>£72.535</td>
<td>0%</td>
<td>0</td>
<td>£1.143</td>
</tr>
<tr>
<td><strong>GAIN</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>2.377</strong></td>
</tr>
</tbody>
</table>

**ALTERNATIVELY:**

2. If Arun Pooled With West Sussex CC

<table>
<thead>
<tr>
<th>Authority Type</th>
<th>2015/16 Forecast Rates Income</th>
<th>Individual Authority Rates Income</th>
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<td>£3.358</td>
<td>£2.469</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Top up</strong></td>
<td><strong>79.504</strong></td>
<td><strong>75.892</strong></td>
<td>0%</td>
<td>0</td>
<td><strong>3.612</strong></td>
</tr>
<tr>
<td><strong>GAIN from Pooling (2-1)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>1.234</strong></td>
</tr>
</tbody>
</table>

10. There is a £1.234m gain if Arun and West Sussex Pool together, compared with being treated separately. This is because a pool is aggregated together and treated as if it is a unitary. As, in this case, the Arun/WSCC pool is a top-up authority it has a nil levy (0%). All the growth in business rates is therefore retained locally, rather than a proportion being surrendered to Government as Arun would have to if it was treated individually.

Potential Impact of a Pool

A. For all West Sussex authorities

11. The estimated business rates for 2015/16 have been used to examine the financial impact of pooling for next year. The finding is that it is impossible to see how a Pool for all West Sussex authorities would make a financial gain for the area. A pool for 2015/16, based on expected business rates, shows a loss of some £0.1m. The key issue is that the Levy remains very high when all the Districts and Boroughs pool with WSCC (44%). As a
‘unitary’ (in Government’s eyes) this levy of 44% is paid on ALL the growth in business rates (County plus Districts/Boroughs growth), rather than the Districts and Boroughs growth only, which would be the case if authorities were not pooled and treated separately. Such a high levy rate will always produce a loss regardless of the amount of growth.

12. The levy rate is different for all Pools currently in existence around the country, as it is dependent upon their local circumstances and business rates. The Pool levy rate varies from 0% to 19% for those Pooling in 2014/15, but by far the majority have a 0% rate. By having such a low rate levy % age rate, the Pools should gain provided business rates are rising more than inflation. A 0% levy means that the Pool is a top-up (in total) and all the growth in business rates above inflation will therefore be retained.

B. For less than all West Sussex authorities

13. By reducing the number of authorities participating in any West Sussex Pool, it is possible to lower the levy rate from the 44% for all West Sussex authorities. The levy rate can be reduced to 0% even - meaning no payment to Government and therefore a gain. The attached chart (appendix 2) shows the gain for different combinations of authorities.

14. Appendix 2 shows the best gains are at 0% levy and with 4 or 5 participants. At the right combination, the gain could be over £2m pa. Different combinations of authorities in West Sussex can produce an overall gain of £2m, though the County is always needed, as its position as the only top-up authority is crucial.

15. However, DCLG expect a pool to occupy a continuous geographical area. The case that makes the most sense is a pool using all the coastal authorities (Arun, Worthing, Adur, Chichester) plus WSCC, and this co-operation will assist on coastal regeneration. However, the exact membership of a pool is also dependent on the forecast growth in business rates so to the Pool members will be kept under review until the submission to the DCLG is required (31 October). This report therefore proposes it is the principle of pooling which is being agreed.

Risks – The Safety Net

16. There is a safety net arrangement to protect councils from significant negative shocks to their future Business Rate income. The safety net is set at where business rates income falls by more than 7.5% below the baseline funding position.

17. The position for deciding on the gain/loss from a pool is made more complicated by whether any individual authority would trigger such a safety net payment from Government if treated individually, whereas under a Pool their fall in business rates would (most likely) be masked by the growth in business rates of other authorities.

18. Some local authorities may find that a reduction in their local business rates income would qualify them for a safety net payment if they are 'stand-
alone’. However, if they are part of a pool, they may no longer qualify where the overall pool is above its combined safety net threshold. That loss, if it occurred, would be shared amongst the Pool with the County picking up by far the greater share. This is part of the risk with pooling. For example, to illustrate the risk, the rate take would have to fall from its estimate 2015/16 value by around 27% (or over £9m) in Arun DC before the Pool (as proposed in paragraph 15 above) as a whole would be in an overall loss position, compared with if authorities do not form a Pool. This is because the safety net sum from Government such a fall in funding would have triggered for Arun (if treated individually) is lost within the Pool, and the gains from a reduced levy would not outweigh such a decrease in business rates.

19. Any gains made by the Pool would be used as the first source of funding to cover the loss of safety net payment to any one authority. However, there is a risk that this would be insufficient. It is therefore possible that the other pool members would be out of pocket, through having to contribute to a safety net payment from their own resource. As the largest authority, the County Council would bear the greatest potential risk from this. However, the mitigation is:

- The loss of business rates would need to be very significant at any one authority (roughly £6m-£9m depending on authority).
- The pool will only proceed if estimated receipts from business rates indicate it represents a net gain.
- A volatility fund can be created after year (from the pool gains) 1 to provide a sum to call on to help cover this risk.

20. However, provided no pooled authority expects to require a safety net, and the levy is 0%, there should be a gain from pooling.

Other considerations

21. To form a Pool, the following process would normally apply:

- Expression of interest made to Government by 31 October
- Chief Finance officers of participants need to support the Expression.
- Drafting an agreement between participants. Members are viewed as one entity from Government’s point of view and jointly responsible for any payments to it. The agreement deals with how to distribute any gain, or share any loss.
- A pool application is either confirmed or withdrawn once the provisional local government finance settlement is issued.
- Government also wants to see that a pool covers an ‘economically coherent’ area, and their rules suggest the pool should have continuous boundaries (rather than being ‘cherry picked’).
- It is important to note that any authority withdrawing from a pool invalidates the whole Pool. It is therefore important that partners are comfortable pooling at any early stage.

22. Pooling business rate income across a wider area ensures authorities can benefit from economic growth across that wider area. It can mean that strategic decisions that are needed about regeneration and infrastructure are easier to make. From a District Council viewpoint, some risks are mitigated
by pooling – such as if a business were to relocate to a neighbouring authority the income would no longer ‘disappear’.

23. The broad principles that are likely to form part of the agreement with Adur/Worthing, Arun and Chichester (or other party if that changes) are:

- That no Council participating in the pool should be worse off as a result of being in the pool;
- That the pool should facilitate better management of the risks associated with business rates;
- That the final membership of the pool should be drawn up with an eye to maximising the extra amount of business rates locally;
- That the membership of the pool should be based on an economically coherent unit.
- West Sussex authorities that are not members of the Pool should still be able to influence and benefit from the use of the extra funds gained.

Potential application of pool gain proceeds

24. West Sussex Finance Officers Association, comprising the Treasurers or similar officer from the Districts/Boroughs and the County Council discussed this proposal recently and were supportive. The consensus was any gain would have most impact if focused on 1 or 2 particular aims and administered collectively rather than dissipated amongst authorities for individual decisions. Therefore, as much of the anticipated gain in funding as possible is intended to be held in a Strategic Investment Fund for allocation to proposals which best meet the criteria of supporting regeneration.

25. Although limiting a pool’s formal membership may be a necessity to maximise the gain, this does not mean the other West Sussex authorities would be unable to influence or participate with ideas in how the money could be applied in whatever location and to whatever end that boosted local growth all could benefit from.

26. The County Chief Executives meeting also discussed this proposal on 22 September and were supportive of the proposal.

Proposal – Summary

27. A pool for all West Sussex authorities would not be financially beneficial. That is because under a Pool the levy rate remains quite high (at 44%) and a gain is not possible with such a high levy.

28. However, a pool with a lower number of members, provided it has the County Council, should be able to gain financially. A pool with a small enough number of authorities could remain as a ‘top-up’ Pool in total i.e. paying no tariff, and therefore avoid paying any levy altogether, or paying just a small percentage levy. This would allow authorities in West Sussex to benefit from the good increase in business rates experienced within some areas.
29. A pool of WSCC, Arun, Adur/Worthing plus Chichester is currently estimated to show a gain of over £2m. Such a pool also makes an economic case along the lines of coastal regeneration and meets the DCLG criteria of authorities with continuous boundaries.

30. It should be noted there are risks as referred to in paragraphs 15-17. Specifically, if an authority were to see a fall in its business rates of greater than 7.5% of its baseline funding, it would probably not receive a safety net payment from Government when within a Pool. As the largest participant, the County Council would be largely underwriting this risk. This risk will be mitigated by ensuring robust estimates of business rates exist for 2015/16 before a final commitment is made to Pool. In subsequent years a dedicated sum can be set aside to address this risk via a volatility fund accumulated from the gains of pooling.

31. The figures will be reviewed once the provisional local government finance settlement is made in December and a final decision taken on whether to proceed at that point. Authorities can withdraw from pooling during the period of the provisional local government finance settlement.

Other Options considered

32. The other alternatives would be to form a pool with other Districts/Boroughs in West Sussex or to remain as a stand alone authority – which would not secure the potential extra funding open to a Pool.

33. It would be possible to form a pool with other authorities in West Sussex that could potentially raise the same sum. However, the criteria applied by Government include that it should be a continuous geographical area and that Government will have regard for the wider objective of growth. With that in mind, a pool based on the coastal West Sussex authorities is considered the strongest case. However, the intention would be to involve the other authorities in West Sussex on decisions over the application of the funds gain, with a view to maximising the County wide benefits.

Resource Implications and Value for Money

34. As outlined above the proposal is forecast to create benefit of around an extra £2m in local business rates being retained. The forecast will be updated once more detail is available on estimated business rates for 2015/16.

35. The County may also support this initiative with further resources to assist with regeneration. An amount in the region of £0.5m will be made available from existing resources, and so will not represent a new additional cost.

Impact of the proposal

36. An Equality Impact Report is not required for this decision. It has been assessed against the criteria in the EIR template and, as there would be no impact yet from this proposal on any of the groups set out, no EIR is
needed. As and when proposals come forward to allocate the extra funding to particular projects, an EIR can be completed as needed.

**Crime and Disorder Act Implications**

37. n/a.

**Human Rights**

38. n/a.

**Social Value**

39. n/a

**Risk Management Implications**

40. The risks identified in paragraph 15-18 above, to ensure a safety net will be provided for individual Pool members in accordance with the ‘no worse off for pooling’ principle, will need to be mitigated via the approach in paragraph 19 which includes use of a volatility fund. The amount allocated will be agreed with the authorities who form the Pool. The volatility fund will be financed, in year 1, from the gains acquired from the reduced levy.

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Appendices - West Sussex County Council calculations on gains under pooling

**Background Papers**

None