

# CABINET

## Flexible Use of Capital Receipts Strategy 2023-24 28 February 2023

### Report of Chief Finance Officer

#### PURPOSE OF REPORT

Statutory guidance from the Department for Levelling Up, Homes and Communities (DLUHC) and the Chartered Institute of Public Finance and Accountancy (CIPFA) enables local authorities to make flexible use of capital receipts to fund projects which are likely to generate savings to the authority and / or other public bodies.

To make use of this provision, authorities must submit to the Secretary of State a Flexible Use of Capital Receipts Strategy setting out how the provision will be applied in the next financial year.

This report proposes a Flexible Use of Capital Receipts Strategy for 2023-24 to complement the Council's Outcomes-Based Resourcing programme.

**This report is public.**

#### RECOMMENDATION OF COUNCILLOR WHITEHEAD

- (1) To recommend that Full Council approves the Flexible Use of Capital Receipts Strategy 2023/24 set out in this report, in accordance with the relevant statutory guidance.

#### 1.0 INTRODUCTION

1.1 All Councils are limited in their ability to utilise capital receipts, usually arising from the disposal proceeds from the sale of fixed assets. Statutory guidance issued under section 15(1) of the Local Government Act 2003 by the Ministry of Housing, Communities and Local Government (as amended) generally precludes capital receipts being used to fund revenue expenditure and requires them to be applied to either fund capital expenditure or repay debt. The Act also requires local authorities to have regard to other guidance as issued or directed by the Secretary of State – this currently includes the following guidance issued by the Chartered Institute of Public Finance and Accountancy [CIPFA]:

- The Prudential Code for Capital Finance in Local Authorities; and
- The Code of Practice on Local Authority Accounting.

1.2 The Government's Spending Review 2015 included a relaxation of these regulations allowing the use of capital receipts for a limited period, between 2016/17 and 2018/19, to fund revenue expenditure "***that is designed to generate ongoing revenue savings in the delivery of public services and/or transform service delivery to reduce costs or improve the quality-of-service delivery in future years***". This announcement was implemented by the issuing of regulations in March 2016. The period over which these amended regulations applied has continued to be extended.

- 1.3 In the 2022/23 Provisional Local Government Finance Settlement the following was announced and with it the extension of the flexibility to use capital receipts to fund transformation projects that produce long-term savings or reduce the costs of service delivery.
- 1.4 On 4 April 2022, the Department of Levelling Up, Housing, and Communities confirmed this extension and published Guidance and a Direction, which can be accessed online [here](#).

## **2.0 THE GUIDANCE / DIRECTIVE**

2.1 The guidance on the use of capital receipts flexibility was issued by the Secretary of State under section 15(1) of the Local Government Act 2003, and authorities are therefore required to have regard to it. The Guidance specified that:

- Local authorities will only be able to use capital receipts from the sale of property, plant and equipment received in the years in which this flexibility is offered. They may not use their existing stock of capital receipts to finance the revenue costs of reform.
- Local authorities cannot borrow to finance the revenue costs of the service reforms.
- The expenditure for which the flexibility can be applied should be the up-front (set up or implementation) costs that will generate future ongoing savings and/or transform service delivery to reduce costs or to improve the quality-of-service delivery in future years. The ongoing revenue costs of the new processes or arrangements cannot be classified as qualifying expenditure.
- The key determining criteria to use when deciding whether expenditure can be funded by the new capital receipts flexibility is that it is forecast to generate ongoing savings to an authority's, or several authorities', and/or to another public sector body's net service expenditure net service expenditure.
- In using the flexibility, the Council will have due regard to the requirements of the Prudential Code, the CIPFA Local Authority Accounting Code of Practice and the current edition of the Treasury Management in Public Services Code of Practice.

## **3.0 REQUIREMENTS FOR THE STRATEGY**

- 3.1 The guidance requires that authorities wishing to make use of this provision must submit their Strategy to the Secretary of State ahead of each financial year in which the provision is to be used; but that no approval or response is required from the Secretary of State for the Strategy to be implemented. Should Full Council approve the proposed Strategy, it will be submitted to the Secretary of State via the DELTA system.
- 3.2 The Strategy must as a minimum set out the projects which plan to make use of the provision, along with their projected savings and / or service transformation and a summary of the impact on the authority's Prudential Indicators for the forthcoming year and subsequent years. This information is set out in in sections 7 and 8.
- 3.3 The Strategy should also review use of any provision in previous years and report on the savings and / or transformation achieved through use of the provision so far. Lancaster City Council has not yet made use of the provision, and as such any benefits arising from this Strategy will be reported in subsequent years.
- 3.4 The Strategy can be updated at any time during the financial year and re-submitted to the Secretary of State. Authorities must not exceed the amounts stated in their Strategy without first submitting an updated Strategy to the Secretary of State.
- 3.5 The Strategy must be made available to the public free of charge. This report, which is public, sets out Lancaster City Council's Flexible Use of Capital Receipts Strategy for 2023-24 in fulfilment of the above requirements.

#### **4.0 MONITORING AND UPDATING THE STRATEGY**

- 4.1 It is intended that the flexibility will be used to support the actions arising from the Outcomes-Based Resourcing programme. The legitimacy of the use of capital receipts will be determined by the Section 151 Officer to ensure eligibility and compliance with the requirements set out by the Secretary of State. Progress on delivery of the programme, including financial implications and the realisation of benefits, will be reported through Delivering Our Priorities quarterly monitoring via Cabinet and Budget & Performance Panel.
- 4.2 The Strategy may be updated within the financial year. Any updates will be proposed to Cabinet and then Council via a report, which subject to approval would then be submitted to the Secretary of State.
- 4.3 Adoption of the Strategy does not necessarily oblige the Council to utilise capital receipts and initiatives may still be financed in whole or in part from other sources, e.g., revenue budgets. This recognises that not all capital receipts may be realised and that decisions need to be taken in the context of the Council's overall revenue and capital financing position,
- 4.4 Inclusion in the Strategy also does not constitute approval to progress a project.
- 4.5 Going forward the strategy will be presented with the budget annually to Full Council for approval.

#### **5.0 WHICH CAPITAL RECEIPTS ARE ELIGIBLE?**

- 5.1 The guidance sets out the criteria by which capital receipts are eligible for flexible use, summarised in the below excerpt from the guidance:

*"...a qualifying disposal is an asset sale made within the period for which the direction applies, by the local authority to an entity outside the local authority's group structure..."*

*The intent of this condition is that capital receipts which are to be used by authorities under the flexibilities afforded by the direction should be from genuine disposals of assets by the authority. Where an authority retains some control of the assets, directly or indirectly, and retains exposure to the risks and rewards from those assets, the disposal does not give rise to a capital receipt that can be used in accordance with the direction."*

- 5.2 It should be noted that the flexibility excludes Right-To-Buy capital receipts. It should also be noted that the Council's budget process has assumed that forecast capital receipts have not been relied upon to fund any future expenditure.
- 5.3 Forecast capital receipts from 2023/24 onwards have not been factored into the Council's Capital Financing Requirement (CFR) by way of either reducing debt or financing capital expenditure. The use of these receipts under this flexibility will, therefore, have no effect on the Council's Prudential Indicators.

#### **6.0 WHICH EXPENDITURE IS ELIGIBLE?**

- 6.1 The guidance also sets out the criteria by which expenditure would be considered eligible for flexible use of capital receipts. The guidance summarises as follows:

*"Qualifying expenditure is expenditure on any project that is designed to generate ongoing revenue savings in the delivery of public services and/or transform service delivery to reduce costs and/or transform service delivery in a way that reduces costs or demand for services in future years for any of the public sector delivery partners."*

*Set up and implementation costs of any new processes or arrangements can be classified as qualifying expenditure. The ongoing revenue costs of the new processes or arrangements cannot be classified as qualifying expenditure. In addition, one off costs, such as banking*

*savings against temporary increases in costs/pay cannot be classified as qualifying expenditure. Under the direction the in force from April 2022, with respect to redundancy payments, qualifying expenditure will be limited to those amounts that are necessarily incurred as statutory redundancy payments provided the other requirements of qualifying expenditure are met. This restriction does not apply to other severance costs, including pension strain costs; the treatment of these costs remains unchanged from the previous direction.”*

6.2 The guidance provides a range of examples of expenditure which could be considered eligible, although the list is intended to be neither prescriptive nor exhaustive; based on the principles above, it is intended for each individual authority to consider whether a project should be eligible under the provision. The examples from the guidance are summarised below:

- *Sharing back-office and administrative services with one or more other council or public sector bodies.*
- *Investment in service reform feasibility work, e.g., setting up pilot schemes.*
- *Collaboration between local authorities and central government departments to free up land for economic use.*
- *Funding the cost-of-service reconfiguration, restructuring or rationalisation where this leads to ongoing efficiency savings or service transformation.*
- *Driving a digital approach to the delivery of more efficient public services and how the public interacts with constituent authorities where possible.*
- *Aggregating procurement on common goods and services where possible, either as part of local arrangements or using Crown Commercial Services or regional procurement hubs or Professional Buying Organisations.*
- *Improving systems and processes to tackle fraud and corruption in line with the Local Government Fraud and Corruption Strategy – this could include an element of staff training.*
- *Setting up commercial or alternative delivery models to deliver services more efficiently and bring in revenue (for example, through selling services to others); and*
- *Integrating public facing services across two or more public sector bodies (for example children’s social care or trading standards) to generate savings or to transform service delivery.*

## **7.0 THE COUNCIL’S PROPOSALS**

7.1 The Council intends to use the capital receipts flexibility to fund or part fund savings connected to its Outcomes-Based Resourcing project with the aim of successfully delivering priority outcomes for the Lancaster district whilst at the same time achieving long-term sustainability of finance and resources.

<b>Project</b>	<b>Description</b>	<b>Projected Savings</b>
Service Levels & Efficiency	Revisions and rationalisation of levels of service offered efficiency measures and review of income streams	£1.661M
Alternative Delivery Models & Partnerships	Shared service savings, opportunities, contract reviews & alternative options for achieving outcomes	£0.148M
Organisational Structure & People	Senior leadership restructure, establishment review to ensure fitness for purpose, alignment with desired strategic outcomes, deletion of vacant posts	£0.448M
Strategic Asset Management Planning	Improved asset management planning, asset usage reviews, potential disposals, optimising use of operational assets and prospects for energy and carbon reduction measures.	£0.166M

## **8.0 IMPACT ON PRUDENTIAL INDICATORS**

8.1 As referenced in paragraph 5.3, forecast capital receipts from 2023/24 onwards have not been factored into the Council's Capital Financing Requirement (CFR) by way of either reducing debt or financing capital expenditure. The use of these receipts under this flexibility will, therefore, have no effect on the Council's Prudential Indicators.

## **9.0 DETAILS OF CONSULTATION**

9.1 The council has undertaken substantial consultation including public briefings and a survey in establishing its overall budget proposals for 2023-24 onwards. This Strategy contributes to the delivery of those proposals by making use of the financial flexibility available to the council in implementing its Outcomes-Based Resourcing approach.

## 10.0 OPTIONS AND OPTIONS ANALYSIS (including risk assessment)

<b>Option 1: Adopt the Strategy</b>
<b>Advantages</b> The Council will be able to make use of the Flexible Capital Receipts provision in delivering its Outcomes-Based Resourcing programme.
<b>Disadvantages</b> None identified from this report.
<b>Risks</b> Capital receipts, savings and transformation benefits may not be realised as anticipated in the Strategy; the associated risks will be mitigated through the implementation of the Outcomes-Based Resourcing programme.
<b>Option 2: Do not adopt the Strategy</b>
<b>Advantages</b> None identified from this report.
<b>Disadvantages</b> The Council will be unable to consider funding savings initiatives and service transformation through use of capital receipts, and may therefore be unable to achieve the savings, outcomes and benefits anticipated from these projects.
<b>Risks</b> Not adopting a Flexible Use of Capital Receipts Strategy at this point would severely constrain the council's ability to deliver its Outcomes-Based Resourcing programme.

## 12.0 OFFICER PREFERRED OPTION

- 12.1 The officer preferred option is Option 1, to enable the Council to make use of the Flexible Capital Receipts provision in supporting its savings and service transformation initiatives over the coming years.

## 13.0 CONCLUSION

- 13.1 This report, if approved, will enable the council to use capital receipts to fund savings and service transformation initiatives. Failure to adopt a Flexible Use of Capital Receipts Strategy will severely constrain the council's ability to pursue these initiatives.

### **RELATIONSHIP TO POLICY FRAMEWORK**

If adopted, the Flexible Use of Capital Receipts Strategy would form part of the council's Policy Framework. From a strategic perspective, enabling the use of capital receipts to deliver savings and service transformation initiatives will give the council scope to pursue its Outcomes-Based Resourcing programme with greater flexibility and effectiveness.

### **CONCLUSION OF IMPACT ASSESSMENT**

(including Diversity, Human Rights, Community Safety, Sustainability etc)

No direct impact arising from this report. All initiatives supported by flexible use of capital receipts will be considered for their impact as appropriate.

### **FINANCIAL IMPLICATIONS**

As outlined in the report, forecast capital receipts generated during the year will be used flexibly in compliance with the requirements of the Secretary of State to support projected savings identified as part of the Outcomes-based resourcing programme. Use will be determined by the S151 officer to ensure both eligibility and the impact on the Council's overall revenue and capital financing position.

### **SECTION 151 OFFICER'S COMMENTS**

The s151 Officer has contributed to the writing of this report, however, he wishes to draw Members attention to the following.

The Council's Constitution (Part 3 Section 5 – Budget & Policy Framework), where either a new or existing plan/strategy/budget is being considered, the Overview and Scrutiny Committee or Budget and Performance Panel will have an opportunity to comment. If it considers it appropriate, Cabinet may then amend its proposals before submitting them to Council for consideration.

Unfortunately, due to a number of factors particularly the late conclusion of the budget process but also, delays to IT software and provision of information, this strategy has not been considered by Budget & Performance Panel. As the approval of the strategy is a function of Full Council all Members, including those sitting on B&PP may propose any changes, or amendments at that meeting.

### **LEGAL IMPLICATIONS**

The Local Government Act 2003 ("the Act"), section 15(1) requires a local authority "... to have regard (a) to such guidance as the Secretary of State may issue, and (b) to such other guidance as the Secretary of State may by regulations specify ...".

Two codes of practice issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) contain guidance on capital receipts and local authority accounting that complement the Department for Levelling Up, Housing and Communities (DLUHC) guidance. These publications are:

- The Prudential Code for Capital Finance in Local Authorities
- The Code of Practice on Local Authority Accounting

Local authorities are required to have regard to the current edition of The Prudential Code for Capital Finance in Local Authorities by regulation 2 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 and to the Local Authority Accounting Code as proper practices for preparing accounts under section 21(2) of the Act.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments to add

**BACKGROUND PAPERS**

Council

[Agenda for Council on Wednesday, 22nd February 2023, 6.00 p.m. - Lancaster City Council](#)

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