Appendix B

Department for
Communities and
Local Government

Draft Guidance on the Flexible Use of Capital Receipts

December 2015
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at http://forms.communities.gov.uk/ or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: https://twitter.com/CommunitiesUK

December 2015

ISBN: 978-1-4098-4751-9

Contents

Part 1 of this document provides an informal commentary on Part 2.

Part 2 contains the statutory guidance to which local authorities must have regard.

Part 1

Informal commentary on the guidance on the flexible use of capital receipts

[References to the paragraphs in the formal guidance are in square brackets]

Power under which the guidance is issued [1.1]

1. 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 ...'.

2. The guidance on use of capital receipts flexibility in Part 2 of this document is issued under section 15(1) of the Act and authorities are therefore required to have regard to it.

3. 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 DCLG guidance. These publications are:

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

4. Local authorities are required to have regard to the current edition of *Treasury Management in Public Services: Code of Practice and Sectoral Guidance Notes* by regulation 2 of the *Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 [SI 3146]* and to the *Local Authority Accounting Code* as proper practices for preparing accounts under section 21(2) of the Act.

Application [3.1-3.2]

5. This guidance should be read alongside the relevant Direction issued by the Secretary of State. Separate Directions will be issued to local authorities (including Fire and Rescue Authorities), to Police and Crime Commissioners, and to the Greater London Authority / Transport for London.

6. This guidance applies with effect from 1 April 2016 to 31 March 2019 – i.e. to the financial year 2016-17 and for each subsequent financial year to which the flexible use of capital receipts direction applies.

7. The direction makes it clear that local authorities cannot borrow to finance the revenue costs of service reform. Local authorities can only use capital receipts from the sale of property, plant and equipment received in the years in which this flexibility is offered.

Local authorities may not use their existing stock of capital receipts to finance the revenue costs of reform.

Qualifying expenditure [4.1-4.3]

8. The Secretary of State believes that individual authorities and groups of authorities are best placed to decide which projects will be most effective for their areas. The key criteria to use when deciding whether expenditure can be funded by the 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.

9. A list of types of project that would qualify for the flexible use of capital receipts is included in the guidance. This list is not meant to be prescriptive or exhaustive and individual authorities who have projects that will generate ongoing savings that are not included in the list provided in the guidance can apply the flexibility to fund those projects.

Accountability and transparency [5.1-5.8]

10. The Secretary of State believes that it is important that individual authorities demonstrate the highest standards of accountability and transparency. The guidance recommends that each authority should prepare a strategy that includes separate disclosure of the individual projects that will be funded or part funded through capital receipts flexibility and that the strategy is approved by full Council or the equivalent. This strategy can be included as part of the annual budget documentation and approved by full Council or the equivalent at the same time as the annual budget.

Part 2

Guidance on the flexible use of capital receipts

Issued under section 15(1)(a) of the Local Government Act 2003

(1) Power under which the guidance is issued

1.1 The following guidance is issued by the Secretary of State under section 15(1)(a) of the *Local Government Act 2003.*

(2) Definition of terms

2.1 In this guidance, ***the Act*** means the *Local Government Act 2003.*

2.2 ***Local authority*** has the meaning given in section 23 of the Act (and in regulations made under that section).

2.3 ***Capital receipt*** has the meaning given in section 9 of the Act (and in regulations made under that section).

2.4 ***Qualifying expenditure*** means expenditure on a project where incurring up-front costs will generate ongoing savings. The main part of this guidance details the types of project that will generate qualifying expenditure.

2.5 The ***direction*** means a direction made under section 16(2)(b) of the Act, to allow named local authorities to treat qualifying expenditure as being capital expenditure.

(3) Application

Effective date

3.1 This guidance applies with effect from 1 April 2016, for the period for which flexible use of capital receipts will apply, which will be set out in the direction.

Local authorities

3.2 This guidance applies to all local authorities in England named in the Directions issued by the Secretary of State.