

Report of:	Executive Member for Finance and Governance Director of Finance
Submitted to:	Council
Date:	7 September 2022
Title:	Flexible Use of Capital Receipts Strategy 2022/23
Report for:	Decision
Status:	Public
Strategic priority:	All
Key decision:	Yes
Why:	Decision(s) will incur expenditure or savings above £150,000
Urgent:	No
Why:	

Executive summary

Following the adoption of a Flexible Use of Capital Receipts Strategy in 2021/22 as approved by Council on 20 October 2021, and the publication of further legislation and guidance for a further 3-year extension from 1 April 2022, this report proposes a Flexible Use of Capital Receipts Strategy for 2022/23 for approval by Council.

The report details the proposed individual projects, totalling approximately £2.7m, which are planned to be funded from the flexible use of capital receipts in 2022/23 in accordance with the Statutory Guidance.

Full Council is required under the Statutory Guidance on the Flexible Use of Capital Receipts to approve the Council's Flexible Use of Capital Receipts Strategy.

This is recommended to enable the effective management of finances, in line with the Council's Local Code of Corporate Governance, the Scheme of Delegation, and agreed corporate financial regulations. The approach set out within the report will help the Council maximise the use of financial resources available, while ensuring that there is a minimum impact on the level of service delivered to the public or on the Council Tax payer.

To not propose a Flexible Use of Capital Receipts Strategy for 2022/23 would mean the Council would potentially forego the opportunity to maximise the use of financial resources available to it.

The implications of the recommendation have been considered by the appropriate officers of the Council and are set out in the main body of the report.

Purpose

1. This report proposes a Flexible Use of Capital Receipts Strategy for the Council for 2022/23 for approval by Full Council, and details the proposed individual projects which are planned to be funded from the flexible use of capital receipts in 2022/23 in accordance with the Statutory Guidance.

Background and relevant information

Introduction

2. Local authorities are limited in their ability to utilise capital receipts (the disposal proceeds from the sale of fixed assets or repayment of loans for capital purposes). 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.
3. The Spending Review 2015 included a relaxation to the above 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 was extended for a further 3 years to 2021/22 in the 2018/19 Local Government Finance Settlement.
4. Middlesbrough Council implemented a Flexible Use of Capital Receipts Strategy for the first time in 2021/22 under the Statutory Guidance and a report was approved by Council on 20 October 2021.
5. On 4 April 2022 the Secretary of State issued a new direction and Statutory Guidance for the extension of the freedom for local authorities to use eligible capital receipts to fund the revenue costs of projects that deliver ongoing savings or improved efficiency for a further 3 years from 1 April 2022, i.e. for 2022/23, 2023/24 and 2024/25. An updated direction and Statutory Guidance was then issued on 2 August 2022, which replaced the one issued on 4 April 2022. A summary of the key points of the updated direction and the Statutory Guidance are provided in the paragraphs below and a link to the detailed Statutory Guidance is included in the Background Papers section to this report.
6. Capital receipts are the money councils receive from asset sales, the use of which is normally restricted to funding other capital expenditure or paying off debt. The receipts cannot usually be used to fund revenue costs.
7. The direction allows authorities to use the proceeds from asset sales to fund the revenue costs of projects that will reduce costs, increase revenue or support a more efficient

provision of services. This is an extension of the flexibility that has been in place since 2016, and will allow this freedom to continue to 2024/25 to help authorities plan for the long-term.

8. Local authorities can only use capital receipts from a qualifying disposal of property, plant and equipment assets received in the years in which this flexibility is offered.
9. The Statutory Guidance provides a definition of expenditure that qualifies to be funded from the capital receipts flexibility. 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. The Statutory Guidance provides some examples of qualifying expenditure.
10. The updated direction issued on 2 August 2022 introduces a new restriction that authorities may not use the flexibility to fund discretionary redundancy payments, i.e. those not necessarily incurred under statute. This does not affect other types of severance payments, and to be clear, does not restrict including pension strain costs, which may still be qualifying expenditure.
11. The updated direction also clarifies that the capital receipts obtained must be disposals 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.
12. For each financial year, each Council is required to prepare a "Flexible Use of Capital Receipts Strategy" to be approved by Full Council. This Strategy does not need to be a separate document, and the requirement can be satisfied by including relevant documents within the Annual Budget documents or as part of the Mid-Term Financial Plan (or equivalent).
13. As a minimum, the Strategy should list each project that plans to make use of the capital receipts flexibility and that on a project-by-project basis details of the expected savings/service transformation are provided. The Strategy should report the impact on the local authority's Prudential Indicators for the forthcoming year and subsequent years.
14. In the updated direction issued on 2 August 2022 it is now a required condition of the direction that local authorities send details setting out their planned use of the flexibility in advance of use for each financial year. This condition can be met by sending the authority's own strategy documents, provided they contain the detail asked for in the direction. The form to cover this requirement and for submitting the strategy for the Flexible Use of Capital Receipts for 2022/23 is to be submitted via DLUHC's DELTA system by 30 September 2022. This is not an approval process, but the information must be sent to ensure transparency and allow proper monitoring by central government.
15. For the 2022/23 Strategy and in each future year, the Strategy should contain details on projects approved in previous years, including a commentary on whether the planned

savings or service transformation have been/are being realised in line with the initial analysis.

16. The Statutory Guidance allows local authorities to update their Strategy during the year, however the amount capitalised in the financial year must not exceed the amount set out in the plan, including any updated plans, provided to the Secretary of State. If the Council wishes to amend their plans, they are required to notify DLUHC. This is to allow central Government to keep track of planned use of the flexibility for national accounts purposes.

Progress against the 2021/22 Strategy

17. As per the Statutory Guidance, there is a need to include details on projects approved in previous years, including a commentary on whether the planned savings or service transformation have been/are being realised in line with the initial analysis.
18. Middlesbrough Council implemented a Flexible Use of Capital Receipts Strategy for the first time in 2021/22 under the Statutory Guidance and Council approved a report on 20 October 2021 relating to this. Due to the ongoing Children's Services Ofsted Improvement Plan work the adoption of such a Strategy helped support the significant and continued transformation work taking place within the Council, which will deliver improvement and efficiencies in the future.
19. The Flexible Use of Capital Receipts Strategy for 2021/22 approved by Council on 20 October 2021 included proposed projects along with estimated costs and potential savings. Progress against the approved Strategy for 2021/22 was monitored throughout the financial year as part of regular budget monitoring arrangements and reported accordingly as part of the current quarterly budget monitoring reports to Executive, along with any updates to the Strategy as proposals were developed and expenditure was incurred. The final end of year schedule for 2021/22 of the projects to transform services that were funded through flexible use of capital receipts for 2021/22 along with the final costs for 2021/22, and the associated estimated annual revenue savings or future cost avoidance, was reported as part of the Revenue and Capital Budget – Year-End Outturn position 2021/22 report to Executive on 14 June 2022, and is shown for information in the table below.

Project	Further Details	Investment Required 2021/22 £000	Estimated annual savings £000
Children's Services - Children's Care	Funding for transformation of service and Ofsted Improvement Plan to improve services and outcomes		
	Specialist agency teams in Referrals & Assessments to improve the "front door model"	1,145	Cost avoidance
	Specialist agency team examining placements in order to reduce high cost placements	592	624
	Workforce remodelling - experienced social worker recruitment and retention / agency worker reduction strategy	427	200
	Transformation costs associated with increasing internal residential provision	26	521
	One-off transformation costs associated with improvements in practice to reduce future numbers of children looked after (includes professional fees, legal costs, increased S17 payments)	132	Cost avoidance
	Transformation of Children with Disabilities long-term packages of support to prevent young people entering care	0	0
	Additional posts to drive improvement and transformation	183	Enabling
Central budgets - Ofsted Improvement	Ofsted Improvement Plan additional posts to drive improvement and transformation	1,811	Enabling
		4,316	1,345
Central budgets - Change Fund			
Digital Transformation	One-off implementation costs related to the Digital Transformation Project	148	1,094
Children's Services	Additional posts to support changes in Senior Management and Programme Managers	140	Enabling
Management and Staffing Review	Service reconfiguration, restructuring or rationalisation of management and staff, where this leads to ongoing efficiency savings or service transformation	327	192
Organisational Development	Organisational Development upskilling linked to the Council's values	23	Enabling
HR System	Development of the Council's HR system	0	Enabling
Project Support for Transformation Projects	Support for the transformation across the Council	63	Enabling
TOTAL		5,017	2,631

20. Entries were made in the Council's accounts in 2021/22 for these having due regard to the Local Authority Accounting Code of Practice, including the effect on the Council's Investment Strategy.

The Council's Proposals for 2022/23

21. When Council approved the Revenue Budget, Council Tax, Medium Term Financial Plan (MTFP) and Capital Strategy report on 23 February 2022, the Government had not passed formal legislation to allow the extension of the flexible use of capital receipts into 2022/23, and therefore within that report such a Strategy could not be formally included and approved. The Council however in that report announced its intention to consider the merits of the implementation of such a Strategy in 2022/23 subject to legislation being passed, and this was re-iterated in the Revenue and Capital Budget – Projected Outturn position as at Quarter One 2022/23 report presented to Executive on 6 September 2022.
22. As seen above the legislation was initially passed on 4 April 2022 and then further updated on 2 August 2022. It is therefore now the intention of the Council to propose the approval of such a Strategy for 2022/23, similar to that adopted in 2021/22, mainly again to help support the significant and continued transformation work taking place within Children's Services and the Council, which will deliver improvement and efficiencies. The current level of estimated capital receipts in 2022/23 is approximately £2.7m as shown in the Revenue and Capital Budget – Projected Outturn Position as at Quarter One 2022/23 report, and it is intended to fully utilise these for the proposed Flexible Use of Capital Receipts Strategy in 2022/23.
23. The table below presents the projects to transform services that are proposed to be funded through flexible use of capital receipts for 2022/23, along with the estimated projected costs, and the associated estimated annual revenue savings or future cost avoidance. In some cases there is a direct link between a project and the realisable financial benefit, however in others it is difficult to quantify and the project contributes to enabling savings or costs avoidance in other areas or provide a wider benefit, which would not otherwise be realised.

Project	Further Details	Estimated Investment Required 2022/23 £000	Estimated ongoing annual savings £000
Children's Services	Funding for transformation of Service and Children's Services Ofsted Improvement Plan to improve services and outcomes		
	Specialist agency teams in Referrals & Assessments to improve the "front door model"	1,100	Cost avoidance
	Workforce Development - set up costs for the creation of a Social Worker Academy to reduce the requirement for agency staff	349	420
	Workforce Development - specialist training to reduce the requirement for agency staff	105	
	Children's Services Ofsted Improvement Plan - Additional posts linked to compliance and support to drive improvement and transformation	265	Enabling & Cost Avoidance
Children's Services Ofsted Improvement Plan - Additional posts to improve and embed good practice	875	Enabling	
TOTAL		2,694	420

24. As mentioned in the Revenue Budget, Council Tax, MTFP and Capital Strategy 2022/23 report presented to Council on 23 February 2022, Children's Social Care remains the biggest area of financial concern and a three-year plan was drawn up in July 2021 for the potential MTFP impact. This will require a reduction in the overall current level of expenditure by Children's Services by 2024/25, and the transformation projects outlined above are part of enabling this transformation to take place, which will improve practice and produce significant cost reductions/savings.
25. There are also potential costs which may be incurred in 2022/23 associated with potential transformation across the Council which may be required due to the current financial position of the Council as outlined in the Revenue and Capital Budget – Projected Outturn position as at Quarter One 2022/23 report. These are likely to be linked to service reconfiguration, restructuring or rationalisation of management and staff, where this leads to ongoing efficiency savings or service transformation. These such costs will potentially be included if any of the above estimated costs relating to Children's Services Improvement Plan do not materialise, and also providing there are sufficient capital receipts generated in 2022/23. As per the Statutory Guidance, only statutory redundancy payments can be included.
26. In the future, if legislation permits, a Flexible Use of Capital Receipts Strategy will be included within the budget report presented to Full Council in February each year.

Monitoring the Strategy

27. The Strategy will be monitored throughout the financial year as part of regular budget monitoring arrangements and be reported accordingly as part of the current quarterly budget monitoring reports to Executive. The Strategy may be updated and replaced as proposals are developed and expenditure is incurred.
28. It should be noted that the use of the Strategy in 2022/23 will be dependent on the estimated capital receipts being generated and qualifying expenditure being made in 2022/23.
29. The legitimacy of the use of the Strategy will be determined by the Council's s151 Officer in order to ensure that it meets the requirements set out by the Secretary of State.

The Prudential Code

30. The Council will have due regard to the requirements of the Prudential Code and the impact on its prudential indicators from implementing the proposed Strategy. The capital expenditure prudential indicators will be amended and approved as appropriate.
31. The indicators that will be impacted by this Strategy are set out below:
- Capital financing requirement will be increased by an estimated approximate £2.7m in 2022/23 as these capital receipts were intended to support schemes within the existing Investment Strategy that are now budgeted to be financed by prudential borrowing. Schemes financed by prudential borrowing are reflected within the prudential indicators as set out within the Treasury Management Strategy and included as part of the budget.

- Financing costs as a percentage of net revenue stream (%), noting that the savings generated from these projects will meet the debt financing costs arising from the additional borrowing. The current indicative cost of borrowing the estimated approximate £2.7m in 2022/23 is approximately £126,000 p.a.

32. The prudential indicators show that this Strategy is affordable and will not impact on the Council's operational boundary and authorised borrowing limit set by the Council for 2022/23. However, this will need to be closely monitored as part of the current quarterly budget monitoring reports to Executive.

33. The Council will also have due regard to the Local Authority Accounting Code of Practice when determining and including the entries required from undertaking and funding the projects within the Council's Statement of Accounts.

What decision(s) are being recommended?

That the Council:

- approves the proposed Flexible Use of Capital Receipts Strategy for 2022/23.

Rationale for the recommended decision(s)

34. To enable the effective management of finances, in line with the Council's Local Code of Corporate Governance, the Scheme of Delegation, and agreed corporate financial regulations. The approach set out within the report will help the Council maximise the use of financial resources available, while ensuring that there is a minimum impact on the level of service delivered to the public or on the Council Tax payer.

Other potential decision(s) and why these have not been recommended

35. To not propose a Flexible Use of Capital Receipts Strategy for 2022/23 would mean the Council would potentially forego the opportunity to maximise the use of financial resources available to it.

Impact(s) of the recommended decision(s)

Legal

36. Full Council is required under the Statutory Guidance on the Flexible Use of Capital Receipts to approve the Council's Flexible Use of Capital Receipts Strategy.

Strategic priorities and risks

37. The MTFP has been reviewed to ensure that the correct assumptions are made in the MTFP and that this will not result in a funding gap requiring further savings to be made (08-059).

38. In line with the Council's Risk Management Policy, the corporate Strategic Risk Register will be reported to Executive on a quarterly basis as part of the Corporate Performance quarterly update reports.

Human Rights, Equality and Data Protection

39. No negative differential impact on diverse groups and communities is anticipated from the adoption of the Flexible Use of Capital Receipts Strategy.

Financial

40. The adoption of the proposed Flexible Use of Capital Receipts Strategy for 2022/23 will enable the Council to use an estimated approximate £2.7m of capital receipts in 2022/23 to contribute towards the cost of transformation within the Council, in particular with respect to the Children's Services Ofsted Improvement Plan.

41. The Council's capital financing requirement will be increased by an estimated approximate £2.7m as these capital receipts were intended to support schemes within the existing Investment Strategy that are now budgeted to be financed by prudential borrowing. The current indicative cost of borrowing the estimated approximate £2.7m in 2022/23 is approximately £126,000 p.a. and this will be factored into future updates of the Council's Medium Term Financial Plan.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
If approved the Flexible Use of Capital Receipts Strategy for 2022/23 will be adopted and submitted to DLUHC via the DELTA system.	Head of Financial Planning & Support	30/9/22
The capital expenditure prudential indicators will be amended and approved as appropriate.	Head of Financial Planning & Support	31/3/23
Regular monitoring of the Flexible Use of Capital Receipts Strategy for 2022/23 will take place throughout 2022/23 as part of the current quarterly budget monitoring reports to Executive, with any amendments required to the plans contained in the Strategy as proposals are developed and expenditure is incurred being reported to Executive and notified to DLUHC as appropriate.	Head of Financial Planning & Support	30/6/23

Appendices

None

Background papers

Body	Report title	Date
Department for Levelling Up, Housing & Communities (DLUHC)	Flexible use of capital receipts direction: local authorities Direction - Flexible use of capital assets (publishing.service.gov.uk)	2/8/22
Department for Levelling Up, Housing & Communities (DLUHC)	Statutory Guidance on the Flexible Use of Capital Receipts (updated August 2022) Guidance on the flexible use of capital receipts (updated August 2022) - GOV.UK (www.gov.uk)	2/8/22
Council	Flexible Use of Capital Receipts Strategy 2021/22	20/10/21
Council	Revenue Budget, Council Tax, Medium Term Financial Plan and Capital Strategy 2022/23	23/2/22
Executive	Revenue and Capital Budget – Projected Outturn position as at Quarter One 2022/23	6/9/22

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