

APPENDIX 6

FLEXIBLE USE OF CAPITAL RECEIPTS STRATEGY 2023/24

Purpose

1. This report proposes a Flexible Use of Capital Receipts Strategy for the Council for 2023/24 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 2023/24 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 2023/24 is to be submitted via DLUHC's DELTA system by 30 September 2023. 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 previous years strategies

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.

2021/22

18. 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 was also shown in the Strategy for 2022/23.
19. 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.

2022/23

20. The Strategy for 2022/23 was approved by Council on 7 September 2022. The table below presents the projects to transform services that were proposed to be funded through flexible use of capital receipts for 2022/23 which total approximately £2.7m, 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

21. Progress against the 2022/23 Strategy has been reported in the Quarters Two and Three Revenue and Capital Budget Projected Outturn 2022/23 reports to Executive, and the final year-end position against the Strategy will be reported as part of the Revenue and Capital Budget – Year-End Outturn position 2022/23 report to Executive. Entries will be made in the Council's accounts in 2022/23 for these having due regard to the Local Authority Accounting Code of Practice, including the effect on the Council's Investment Strategy.
22. As shown in the quarterly budget monitoring reports the expenditure/investment required to undertake the transformation within Children's Services has been or will be incurred by the end of the financial year, however there is a potential risk around whether some of the projected capital receipts of approximately £2.7m will be received in 2022/23, due to the fact that they are planned to be received very late in the financial year. The final level of capital receipts in 2022/23 will determine the final level utilised under the Strategy in 2022/23. The amount of capital receipts utilised under the Strategy will be limited to the actual capital receipts received in 2022/23.
23. Close monitoring of the level of capital receipts received during the rest of the financial year will be undertaken, and an update will be provided in the year-end budget monitoring report.

The Council's Proposals for 2023/24

24. In the MTFP Update report to Council of 30 November 2022 it was noted that the Council proposed the use of a Flexible Use of Capital Receipts Strategy for 2023/24 with an estimated amount of £3m being used as flexible capital receipts. Whilst as shown in Appendix 7 of the main budget report there is forecast in excess of £9m of capital receipts potentially available for use in 2023/24 as flexible capital receipts, it has been decided to limit the amount to be capitalised on a prudent and responsible manner in order to not impact too much on the Council's prudential indicators and borrowing costs in the future from implementing the proposed Strategy, whilst still increasing the level of financial resources available to Council. The use of capital receipts flexibly would also require eligible transformational expenditure to be incurred in 2023/24.
25. The main emphasis of the Flexible Use of Capital Receipts Strategy in 2023/24 is within Children's Services. As mentioned in the main budget report, Children's Services remains the biggest area of financial concern and risk to the Council and there is a need to transform the Service. A Children's Financial Improvement Plan (in a separate report to Executive on 14 February 2023) has been drawn up, and this includes the reduction in the overall current level of expenditure by Children's Services by transforming the Service. The transformation projects outlined below are part of enabling this transformation to take place, which will improve practice and produce significant cost reductions/savings.
26. The table below presents the potential projects to transform services that are proposed to be funded through flexible use of capital receipts for 2023/24 totalling approximately £3m, along with the estimated projected costs, and the associated estimated annual full year 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 2023/24 £000	Estimated ongoing full year net savings £000
Children's Services	Children's Services Financial Improvement Plan		
	Support to deliver Children's Financial improvement Plan	300	4,722
	Family Support - set up and lead in costs for the creation of in-house team and reduction in the use of high cost external provision	200	included in above
	Integration of specialist agency team required in Safeguarding & Care Planning to improve "Children in Need and Child Protection", and transition into business as usual. This will also led to the removal of 2 other managed Teams by using current staff to provide the service	800	included in above
	Set up and lead in costs for the implementation of various projects to Increase the in-house residential offer to reduce expenditure on external placements by purchase and/or refurbishment of additional properties to develop additional bedspaces.	500	included in above
	Creation of new Children's Services Assistant Director post to drive transformation and cost reductions	100	enabling
Corporate	Support to deliver corporate savings programme	400	8,824
	Service reconfiguration, restructuring or rationalisation of management and staff (only statutory elements included) associated with achieving the ongoing savings	500	included in above
	Support required to respond to Best Value Improvement Notice	100	enabling
Adult Social Care	Adult Social Care - implementation of improvement plan and transformation in readiness for CQC inspection	100	enabling
TOTAL		3,000	13,546

27. The estimates of transformational expenditure have been made on a prudent basis, and it should be noted that there will be potentially other expenditure which will be incurred due to the significant transformation work that will be required within Children's Services, and potentially these could be included if any of the above estimated project expenditure does not materialise.

28. Any increase in the use of capital receipts on a flexible basis during 2023/24 above that contained in this Strategy, will as per the Statutory Guidance, require an amended plan and strategy to be made and approved by Council, and sent to the Secretary of State and DLUHC.

Monitoring the Strategy

29. 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.
30. It should be noted that the use of the Strategy in 2023/24 will be dependent on the estimated capital receipts being generated and qualifying expenditure being made in 2023/24.
31. 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

32. 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.
33. The indicators that will be impacted by this Strategy are set out below:
 - Capital financing requirement will be increased by an estimated approximate £3m in 2023/24 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 £3m in 2023/24 is approximately £180,000 p.a.
34. 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 2023/24. However, this will need to be closely monitored as part of the current quarterly budget monitoring reports to Executive.
35. 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.

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

Action	Responsible Officer	Deadline
If approved by Council on 27 February 2023 the Flexible Use of Capital Receipts Strategy for 2023/24 will be adopted and submitted to DLUHC via the DELTA system.	Head of Financial Planning & Support	27/2/23
The capital expenditure prudential indicators will be amended and approved as appropriate.	Head of Financial Planning & Support	31/3/24
Regular monitoring of the Flexible Use of Capital Receipts Strategy for 2023/24 will take place throughout 2023/24 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	30/6/24

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 – Year-End Outturn position 2021/22 report	14/6/22
Council	Flexible Use of Capital Receipts Strategy 2022/23	7/9/22
Executive	Revenue and Capital Budget – Projected Outturn position as at Quarter Two 2022/23	14/11/22
Council	Medium Term Financial Plan Update and Budget Savings Proposals 2023/24	30/11/22
Executive	Revenue and Capital Budget – Projected Outturn position as at Quarter Three 2022/23	14/2/23
Executive	Children’s Services Financial Improvement Plan	14/2/23