

CABINET

20 September 2022

Title: Strategy for the Flexible Use of Capital Receipts 2022/23	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
Report Author: Philippa Farrell and Katherine Heffernan, Heads of Service Finance	Contact Details: E-mail: Philippa.Farrell@lbbd.gov.uk / Katherine.Heffernan@lbbd.gov.uk
Accountable Strategic Leadership Director: Philip Gregory, Strategic Director, Finance and Investment	
Summary <p>Capital receipts can only be used for specific purposes and these are set out in Regulation 23 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 made under section 11 of the Local Government Act 2003. The main permitted purpose is to fund capital expenditure. The use of capital receipts to support revenue expenditure is not permitted by the regulations.</p> <p>In March 2016 the Secretary of State for Communities and Local Government issued guidance giving local authorities greater freedoms in relation to how capital receipts can be used to finance expenditure.</p> <p>The scheme has been extended several times, most recently by the Department for Levelling Up, Housing and Communities (DLUHC) for the financial years 2022/23, 2023/24 and 2024/25. There are clear requirements to use this flexibility.</p> <ol style="list-style-type: none">1. A strategy for the flexible use of Capital Receipts is published and approved by the Local Authority.2. A submission of this strategy is made to the DLUHC. <p>Only projects that generate ongoing savings or increased income can be financed through this flexibility.</p>	
Recommendation(s) <p>The Cabinet is asked to recommend the Assembly to:</p> <ol style="list-style-type: none">(i) Agree the Council's Strategy for the Flexible Use of Capital Receipts 2022/23, as set out at Appendix A to the report; and(ii) Note that as a consequence of the new statutory guidance, only two transformation schemes were deemed to meet the revised criteria and that ongoing schemes no longer meeting the criteria shall be funded from alternative sources within the General Fund.	

Reason(s)

To assist the Council to achieve its priority of creating A New Kind of Council.

1. Introduction and Background

Legislation

- 1.1 Capital receipts can only be used for specific purposes, and these are set out in Regulation 23 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 made under section 11 of the Local Government Act 2003. The main permitted purpose is to fund capital expenditure. The use of capital receipts to support revenue expenditure is not permitted by the regulations.
- 1.2 However, the Secretary of State is empowered to issue Directions allowing expenditure incurred by local authorities to be treated as capital expenditure. Where such a Direction is made, the specified expenditure can then be funded from capital receipts under the Regulations. The Secretary of State for Communities and Local Government issued guidance in March 2016, giving local authorities greater freedoms in relation to how capital receipts can be used to finance expenditure. This Direction allows for the following expenditure to be treated as capital:

“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.”
- 1.3 This was extended in an amended direction in December 2017 by a further three years up to and including 2021/22.
- 1.4 On 4 April 2022, the Government extended the freedom for local authorities to use eligible capital receipts flexibly on qualifying revenue expenditure. Qualifying expenditure would need to meet the below requirements:
 1. A strategy for the flexible use of Capital Receipts is published and approved by the Local Authority.
 2. A submission of this strategy is made to DLUHC.
- 1.5 The direction also includes a new requirement to submit the 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. This is not an approval process, and authorities can still freely use the flexibility as before, but the information must be sent to ensure transparency and allow proper monitoring by central government’.
- 1.6 Only projects that generate ongoing savings or increased income can be financed through this flexibility.
- 1.7 As clearly outlined there must be an Authority Strategy in place that is approved and then shared with DLUC. The Council published its original strategy in February

2021, as Appendix G of the Budget Framework 2021/22 report. The new Strategy is an update of this position and can be found at Appendix A.

- 1.8 Officers were made aware at the time that the Budget Framework report for 2022/23 was presented to Assembly in March 2022, that the scheme was to be extended again by the Government for the period 2022/23 to 2024/25. However, the statutory guidance supporting the extension had not been issued by the DLUHC and, therefore, it was not possible to present a Strategy for the Flexible Use of Capital Receipts 2022/23 as part of that report. We are presenting the new strategy now which is an update of this position and can be found at Appendix A. The Council published its original strategy in February 2021, as Appendix G of the Budget Framework 2021/22 report

LBBD's Approach to the Flexible Use of Capital Receipts

- 1.9 At the initial granting of the powers for the flexible use of capital receipts, the Council created the Transformation Strategy to be funded from the flexible use of capital receipts. Several programmes which were assessed as delivering savings, changes in ways of working that would lessen demand, cost, or provide cost avoidance were identified and met the required criteria at the time. Many of these schemes have reached their conclusion.
- 1.10 At the time of the guidance issued in April 2022, two schemes have been assessed to still fall within the updated criteria for the flexible use of capital receipts. These schemes are outlined in paragraph 2.1 below. Both commenced in prior years and are forecast to complete in this financial year.
- 1.11 The DLUHC issued new statutory guidance in August 2022. The updated guidance provides clarification that the capital receipts used for transformation projects must only be from disposals where the authority does not still retain some direct or indirect control of the assets. This means that councils can no longer use the income generated from asset sales to subsidiary companies to fund transformation projects. The tightening of the rules does not impact on the Council as there were no plans to fund transformation projects in this way.

2. Proposal and Issues

- 2.1 In light of the latest guidance, each potential scheme has been re-evaluated based on activity within 2022/23. Only two projects in 2022/23 meet the updated criteria for flexible use of capital receipts, these being the Adult Services Direct Payment Review and the Adult Services Financial Assessment Review. These projects are anticipated to cost £114,000 in 2022/23 and to generate savings of £125,000. The cost of these projects will be financed by capital receipts.
- 2.2 Several other transformation projects no longer qualify as they do not generate ongoing revenue savings or cost/demand reduction in 2022/23. These projects are:

Project	Funding From	Funding Required
Development of new OD and wellbeing function under Dispersed Working including staff induction.	Corporate Management	97500
Feasibility study for future redevelopment of Roycraft House	Business Support Reserve/Corporate Management	30000
Internal comms resource to support Dispersed Working	Corporate Management	17000
System Development and Business Objects support:	Business Support Reserve	85,000
Data Analyst	Corporate Management	60,000
Multi-agency Safeguarding Review	Service	100,000
Scan it scrap it store it	Business Support Reserve	80,000
ERP	Business Support Reserve	1,200,000*

* Expenditure to date on the ERP project is £1.2m. This will increase throughout the year.

2.3 Alternative sources of financing within the General Fund have been identified for these projects as outlined above. However, this does place additional pressure in-year. This is within current forecasts.

2.4 The Strategy for 2022/23 is set out at Appendix A.

3. Options Appraisal

3.1 Option 1: Approve the two schemes within the strategy

3.2 Option 2: Do not approve the strategy and note that the two schemes must either cease or be funded through alternative means.

4. Consultation

4.1 Consultation with the relevant Business Departments and the PMO have taken place in the creation of this strategy.

4.2 The proposals in this report were considered and endorsed by the Corporate Performance Group on 25 August 2022.

5. Financial Implications

Implications completed by: Sandra Pillinger Group Accountant

5.1 At present there are just two projects which meet the updated criteria for flexible use of capital receipts, these being the Adult Services Direct Payment Review and the Adult Services Financial Assessment Review. These projects are anticipated to cost

£114,000 in 2022/23 and to generate savings of £125,000. The cost of these projects will be financed by capital receipts.

- 5.2 There are other projects which were previously badged as Transformation projects and were funded from capital receipts, but no longer qualify, as they do not generate ongoing revenue savings or cost/demand reduction. Alternative sources of financing have been identified for these projects.

6. Legal Implications

Implications completed by: Dr Paul Feild, Principal Governance and Standards Lawyer

- 6.1 This report seeks approval for continuance of the Council's flexible use of capital receipts scheme. This has been extended by the Government for a further three financial years 2022/23 to 2024/25.
- 6.2 Before the flexibility can be used the Secretary of State's guidance is that the full Council (Assembly) must approve and publish a strategy for the flexible use of Capital Receipts which is then submitted to the DLUHC. The said Department requires the Council's Strategy for openness; it does not actually have a veto and the Council can implement the strategy after its own approval.

Public Background Papers Used in the Preparation of the Report:

- LGA Consultation Response "Proposals for the use of capital receipts from asset sales: 24th September 2013 (<https://www.local.gov.uk/sites/default/files/documents/capitalisation-asset-sale-2c0.pdf>)
- Statutory Guidance on the Flexible Use of Capital Receipts (Updated) (<https://www.gov.uk/government/publications/final-guidance-on-flexible-use-of-capital-receipts/guidance-on-the-flexible-use-of-capital-receipts-updated>)

List of appendices:

- **Appendix A** – Strategy for the Flexible Use of Capital Receipts 2022/23