



HM Treasury

Transfer of functions from the Public Works Loan Board:

response to the consultation

November 2016



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1 Introduction

1.1 The Public Works Loan Board (PWLB) is a statutory body which originated in 1793 and became established on a permanent basis in 1817. It is responsible for issuing central government loans to local authorities and other authorised borrowers. Since 1946, the PWLB has consisted of up to twelve independent Commissioners who are unpaid by law and appointed by the Crown.

1.2 The Commissioners were originally responsible for approving loan applications, including assessing the appropriateness of any security, and collecting the repayments. However, this role is no longer carried out by the Commissioners. Their functions are delegated to the PWLB Secretary, who is a civil servant in the UK Debt Management Office (DMO), which is an executive agency of HM Treasury. Indeed the day to day operations of the PWLB have been delegated to the DMO since July 2002. Moreover, since 2004, local authorities have been responsible for making their own borrowing decisions without government consent under the prudential regime in which any borrowing is automatically secured against authorities' revenues.¹

1.3 In view of these points, the government is proposing to change the governance arrangements relating to the function of the Public Works Loans Board's lending to local authorities and other prescribed bodies.

1.4 The Public Bodies Act 2011 provides a legislative framework for the reform of public bodies, giving government ministers powers to abolish, merge or transfer the functions of certain public bodies through secondary legislation in the form of an order. Section 10 of the Public Bodies Act 2011 requires Ministers to consult on these proposals before laying a draft order.

1.5 On this basis, the Treasury launched a consultation on 12 May 2016² proposing the abolition of the PWLB and the transfer of its functions to another body with a suggestion that the body to whom the functions are transferred should be the Commissioners of the Treasury.³ The rationale is that whilst the role of PWLB is no longer required, the lending functions are still needed and transferring them to the Treasury broadly aligns policy and operational responsibilities to current practice. The consultation asked stakeholders and members of the public for their views on the proposed abolition of the PWLB and proposed governance arrangements to help inform and finalise the government's plans. The consultation closed on 3 August 2016.

1.6 This document provides a summary of the responses received and outlines the government's response to the consultation. We would like to thank all those who responded to the consultation. All responses have been given due consideration.

¹ Local authorities are able to borrow without government consent under the Local Government Act 2003 and the Capital Finance Regulations 2003. All local authorities are required to have regard to the "Prudential Code for Capital Finance in Local Authorities" published by the Chartered Institute of Public Finance and Accountancy (CIPFA).

² Transfer of functions from the Public Works Loan Board: consultation on new governance arrangements (May 2016).
<https://www.gov.uk/government/consultations/transfer-of-functions-from-the-public-works-loan-board-new-governance-arrangements>

³ The legal entity is the Commissioners of the Treasury and consists of, as a rule, the Prime Minister, as first Lord of the Treasury and the Chancellor of the Exchequer as the Second Lord of the Treasury. The Junior Lords of the Treasury are now usually government whips under the Parliamentary Secretary of the Treasury (Chief Whip). The legal entity is referred to as "the Treasury" in the rest of this document.

2 Summary of responses

2.1 HM Treasury received a total of 35 responses to the consultation, of which three were received after the deadline but have been included in this summary. Thirty responses were from local authorities, parish councils and local authority associations; two responses were from private sector bodies; two from members of the public; and one from a PWLB Commissioner.

2.2 Annex A provides a list of the organisations that responded to the consultation. The names of individual respondents are not listed in Annex A for data protection reasons, although any stated organisational affiliations are shown.

2.3 The consultation consisted of four questions. A summary of responses is provided below.

Question 1 – Do you agree that the PWLB (the statutory body consisting of twelve appointed Commissioners) should be abolished?

Consultation responses

2.4 There were 32 responses to this question. 25 responses agreed that the PWLB should be abolished and its lending functions transferred to another body.

2.5 There were seven responses which did not agree that the PWLB should be abolished. Two responses welcomed the fact there was a degree of independent oversight of loans offered by the Commissioners. One response recognised there was no need for the Commissioners but raised concerns about policy issues outside the scope of the consultation. The remainder offered no explanation as to why they disagreed.

Government response

2.6 The government welcomes the fact that most responses accepted the case for abolishing the PWLB. As stated in the consultation document, the government has made clear that the proposed abolition will not impact on the government's lending policy to local authorities.

2.7 We note the comments by some who felt there is a role for independent oversight of loans requested by major local authorities. However, the PWLB Commissioners no longer carry out this function and have not done so for many years. Under the prudential regime, decisions on borrowing are devolved to local authorities.

2.8 The PWLB also lends to town and parish councils (in England), town and community councils (in Wales) and drainage boards. As with local authorities, the Commissioners play no role in approving loan applications from these bodies. However, before lending to these bodies, the PWLB requires additional assurance in the form of borrowing approvals granted by the Department for Communities and Local Government (DCLG), the Welsh government and the Department for Environment, Food and Rural Affairs (DEFRA) respectively. We do not propose to change these arrangements.

Question 2 – Do you agree that option 1 (i.e. transfer powers to the Treasury) provides the most effective arrangement to replace PWLB?

Consultation responses

2.9 The consultation included two options for respondents to consider:

- transfer powers from the PWLB to the Treasury, with operational responsibilities delegated to the DMO (Option 1)
- transfer powers from the PWLB to another legal entity (Option 2)

2.10 We received 26 responses to this question. 22 agreed that the PWLB's functions should be transferred to the Treasury, though one authority did comment they also see advantages in transferring responsibility to the Department for Communities and Local Government (DCLG) as the lead department for local government finance.

2.11 There were four responses which did not agree. One response stated they would prefer to have representatives from the public, civil society, academia, and various regulators such as the Prudential Regulation Authority (PRA), Financial Conduct Authority (FCA) and Bank of England overseeing loans as well as the Treasury. The other three responses rejected the proposal, but did not set out their reasons or offer any alternatives.

Government response

2.12 The PWLB operates within a policy framework set by the Treasury whereby loans to local authorities are funded from the National Loans Fund (NLF) and the lending functions are carried out by the DMO. However the current governance framework does not reflect this. The PWLB Secretary is currently the Accounting Officer who signs off the PWLB Annual Report and Accounts on behalf of the PWLB Commissioners.

2.13 The government's preferred approach is to transfer the PWLB's powers to the Treasury, with operational responsibility delegated to the DMO. The main reason for this is to provide a more streamlined, up to date governance arrangement and ensure that Ministers and Accounting Officers are properly accountable to Parliament, thus replacing the current lines of accountability which are outdated and not fit for purpose. This proposed change also brings governance arrangements in line with current policy and operational responsibilities.

2.14 We remain of the view that transferring to another entity (e.g. DCLG) as outlined in option 2 or involving other entities in overseeing the lending function as suggested above will require additional governance to ensure the National Loans Fund (NLF), which is the source of central government loans to local authorities, acts in accordance with statutory requirements and does not lend at a loss. The Treasury believes the options for involving other entities in overseeing the lending process or transferring the functions to DCLG are likely to add another layer of bureaucracy and potential risk into the process as responsibility for the NLF will need to remain with the Treasury.

Question 3 – Do you agree that the proposals do not give rise to any devolution issues?

Consultation responses

2.15 There were 17 responses of which 15 agreed that the proposals do not give rise to any issues that impact on the devolved administrations. We received two responses who were responding to wider policy issues on devolution which are outside the scope of the consultation.

Government response

2.16 As set out in the consultation document, the Treasury's view is that PWLB policy on lending to local authorities is a reserved¹ matter so we do not require the consent of devolved

¹ Areas of government policy where the UK Parliament has the power to make laws in Scotland, Northern Ireland and Wales.

administrations and the proposals do not modify the functions of any of the persons listed in section 9 of the Public Bodies Act 2011.

2.17 However, we did invite comments from the devolved administrations, but received no response. The other responses received have not identified any grounds by which the proposal would affect the devolved administrations.

Question 4 – Do you agree that the proposed changes will have a negligible impact on borrowers?

Consultation responses

2.18 Of the 20 responses received, 18 agreed that the proposed changes will have a negligible impact on borrowers. The remaining two disagreed; one indicated it depends on how the Treasury implements the changes, while the other stated there would be a significant impact but did not specify how or why.

Government response

2.19 In line with the Public Bodies Act 2011, the government has made clear that the proposed governance changes will not affect existing PWLB loans, the government's policy on lending to local authorities, or the process by which the loan applications or repayments are handled. As set out in the consultation, interest rate policy will remain the responsibility of the Treasury.²

2.20 On this basis, the government's position is unchanged in that we anticipate the proposed changes will have a negligible impact on borrowers.

Other comments

2.21 We did not receive any other suggestions or comments which come within the scope of the consultation.

2.22 However, we did receive a number of comments raising concerns about PWLB policy in particular on debt transfers and early repayment premiums, which are outside the scope of this consultation. As indicated in the consultation document, the proposed changes only affect the governance arrangements – not policy.

² PWLB interest rates are determined by the Treasury in accordance with section 5 of the National Loans Act 1968. As set out in the PWLB's lending arrangements (Circular 158) the Treasury reserves the right to make further, unscheduled intra-daily rate changes, or alter the formula methodology or formula for variable rates, as necessary.
<http://pwl.gov.uk/documentview.aspx?docname=pwlb-circular158.pdf&page=>

3 Next steps

3.1 The government welcomes the fact that a large majority of responses agree with its proposal to abolish the PWLB and transfer its powers to the Treasury. The government therefore plans to use its powers in the Public Bodies Act 2011 to lay before Parliament a draft Order to implement these changes.

A List of respondents

A.1 Below is a list of organisations that responded as well as organisations where individual respondents stated they had an affiliation.

Appledore Parish Council

Arlingclose Limited

Babergh and Mid Suffolk District Councils

Banwell Parish Council

Barming Parish Council

Bembridge Parish Council

Bitton Parish Council

Bodmin Town Council

Calderdale Council

Centre for Urban and Regional Development Studies

Devon County Council

Gateshead Council

Greater London Authority

Hillingdon Council

Kent Association of Local Councils

Knowsley Metropolitan Borough Council

Lancashire County Council

Local Government Association

Marden Parish Council

National Association of Local Councils

New Romney Town Council

Pucklechurch Parish Council

PWLB Commissioner

Roudham and Larling, Stow Bedon and Breckles, Whinburgh and Westfield, Wretham Parish Councils

Society of Local Council Clerks

South Lanarkshire Council

Staffordshire County Council

Suffolk Association of Local Councils

Thanet District Council
Thornbury Town Council
Transport for London
Wickwar Parish Council
Yate Town Council

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