



Department for
Communities and
Local Government

Proposed amendments to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 in relation to the use of capital receipts

Consultation



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

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About this consultation

Topic of this consultation	This paper seeks views on our proposed amendments to the regulations governing the use of receipts arising from the disposal of council housing assets and use of the receipt arising from such disposals.
Scope of the consultation	This consultation seeks views on the proposal, and invites consultees to comment as well as respond to specific questions.
Geographical scope	England only.
Impact assessment	There is no Regulatory impact on the private sector or on charities and no impact assessment has been prepared.

Basic information

To	The consultation is aimed primarily at English local housing authorities, but will also be of interest to English local authority tenants and those wishing to access home ownership.
Body/bodies responsible for the consultation	This consultation is being run by the Department for Communities and Local Government (DCLG).
Duration	The consultation starts on 17 November 2014 and finishes on 19 December 2014
Enquiries	For further information on this consultation document please email ross.buchanan@communities.gsi.gov.uk or telephone 0303 444 3725
How to respond	Consultation responses should be submitted by email to: HRA.PoolingReturns@communities.gsi.gov.uk
Additional ways to become involved	Should a particular authority or group want to meet and discuss the proposed changes, this may be arranged by emailing the address above
After the consultation	The Government will publish its response to the consultation and lay the revised regulations before Parliament so that they come into force on 01 April 2015.

<p>Compliance with the Code of Practice on Consultation</p>	<p>This consultation document and consultation process adhere to the Government’s consultation principles, these can be found at: https://www.gov.uk/government/publications/consultation-principles-guidance</p> <p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).</p> <p>If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.</p> <p>The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be acknowledged unless specifically requested. Your opinions are valuable to us. Thank you for taking the time to read this document and respond. If you have any observations about how we can improve the process please contact:</p> <p>DCLG Consultation Co-ordinator Department for Communities and Local Government Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Or by email to: Consultationcoordinator@communities.gsi.gov.uk</p>
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Chapter 1 Introduction

- 1.1 The Government is committed to reducing bureaucracy generally and burdens on local government specifically. Its intention is that intervention in local housing affairs by central Government be kept to a minimum and be enacted where it is necessary to protect public finances or the rights of individuals.
- 1.2 The Government has also reformed radically the way council housing is financed. Through a one-off self-financing settlement in 2012, stock-holding local authorities were given the right to retain all the rental income generated from their stock. The settlement has given local authorities far greater control of their assets, allowing them to plan their housing businesses over much longer periods.
- 1.3 The purpose of this consultation paper is to seek views on the amendments to the Schedule to the Local Authorities (Capital Finance and Account) (England) Regulations 2003 (“the 2003 Regulations”) we propose to put in place by April 2015. It should be noted that the 2003 Regulations have been amended on a number of occasions but that for purposes of this consultation, the relevant amending regulations are as follows:
 - the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.2) Regulations 2012 (S.I. 2012/711),
 - the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.3) Regulations 2012 (S.I. 2012/1324),
 - the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.4) Regulations 2012 (S.I. 2012/2269),
 - the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2013 (S.I. 2013/476), and
 - the Local Authorities (Capital Finance and Accounting) (England) (Amendment) (No.2) Regulations 2013 (S.I. 2013/1751).
- 1.4 The purpose of the proposed amendments is to enable local housing authorities to calculate the “poolable” amount derived from the disposal of assets for the years 2015-2016 and 2016-2017.
- 1.5 Government will also be separately consulting on further changes to the 2003 regulations in relation to the introduction of new local audit arrangements set out in the Local Audit and Accountability Act 2014. These changes will only affect certain specialised local public bodies but are also likely to result in amendments to the regulations beyond those proposed in this consultation. However, these changes will not impact upon Housing authorities or any of the main categories of local authority and so these bodies are being consulted separately, although the regulatory changes are likely to be made at the same time ie in April 2015.
- 1.6 The 2003 Regulations (as amended) set out the position up to 2014-2015 and it is therefore necessary to put in place new amending regulations from April 2015 following consultation with interested parties.

1.7 The paper poses a number of specific questions. When responding it would be useful if you could identify which questions you are answering. A summary of the questions is attached at Annex A.

Chapter 2 The Pooling of Housing Capital Receipts: Proposed Changes

2.1 The following paragraphs summarise the intended effect of the proposed amendments to the 2003 Regulations.

2.2 We do not propose to make any significant changes to the existing pooling system at this time and our proposed change to the Regulations is to set out for local authorities the formulae to calculate the poolable amount for the financial years 2015-2016 and 2016-2017.

2.3 The proposed amendments would cover the following matters in respect of financial years 2015-2016 and 2016-2017:

- a. calculation of stock-holding local authorities' own share caps;
- b. calculation of share ratios;
- c. calculation of local authorities' assumed debt;
- d. adjustments for specific authorities: Durham County Council; Salford City Council; Gloucester City Council; and the London Borough of Hammersmith and Fulham.

2.4 Please note that we are not seeking views on the principle of pooling itself. The Spending Review 2010 concluded that pooling (and in particular the requirement that 75 per cent of the net receipt arising from Right to Buy (and similar) sales be surrendered to central Government) should continue as a necessary part of addressing the deficit in the nation's finances.

2.5 We shall welcome your views on the proposed amendments to the Regulations.

Application

2.6 This applies to all England's 326 local housing authorities, although in practice only the 167 authorities which still maintain a Housing Revenue Account will be affected.

Current position

2.7 Since 01 April 2012, receipts arising from the sales of dwellings made by local authorities under the Right to Buy have been divided into the following six elements:

- a. transaction costs (retained by the authority);
- b. allowable debt (retained by the authority);
- c. local authority share (retained by the authority);
- d. Treasury share (paid to the Treasury);

- e. buy back costs (retained by the authority); and
- f. 1-4-1 receipts (retained by the authority subject to conditions).

2.8 The proposed amendments only deal directly with the calculation of allowable debt, the local authority share and the Treasury share.

Intended change and reason

Calculation of (assumed debt) allowable debt

- 2.9 Currently, local authorities retain a portion of the receipt which is to cover that part of its housing debt which the sale of dwellings in a particular quarter would require it to pay off (known as the quarterly attributable debt) which is in excess of what the Self-Financing Settlement assumes that they will pay off in that quarter (known as the assumed debt).
- 2.10 It is proposed that this calculation would remain unchanged but that we would simply add quarterly assumed debt for 2015-2016 and 2016-2017 using the same method of calculating as that used for the calculation of assumed debt in the previous three years (ie multiplying the number of sales predicted under the Self-Financing Settlement by the average attributable debt of the local authority's dwellings (see Annex D)).

Consultation Question 1: In the context of no significant changes to the pooling system, are you:

- a) content for the existing arrangements for the calculation of assumed debt to continue, and**
- b) has the formula as set out in Annex D been calculated correctly?**

Calculation of local authority share cap

- 2.11 Currently, after netting off transaction costs and allowable debt, and where a sufficiently high level of Right to Buy receipts are available, one portion, known as the local authority share cap, is retained by the local authority for any capital purpose and another (the local authority share cap multiplied by the share ratio (see paragraph 2.13 below) is paid to the Treasury and known as the Treasury share cap. Where there is an insufficiently high level of Right to Buy receipts available (which was the case for only 23 out of the 167 stock-holding authorities in the final quarter of the financial year 2013-2014), then the remaining Right to Buy receipts are divided between the local authority and the Treasury using a formula involving the same share ratio.
- 2.12 It is proposed that this arrangement will remain unchanged and that we would simply amend the regulations to include new share caps for each local authority for 2015-2016 and 2016-2017 using the same formulae as the calculation of its share caps in the three previous years (i.e. multiplying the number of sales predicted under the Self-Financing Settlement by the level of receipts the local authority would have expected to receive per Right to Buy sale, had the reinvigoration of Right to Buy not taken place). (See Annexes B and C.)

Consultation Question 2: In the context of no significant changes to the pooling system:

- a) are you content for the existing arrangements for the calculation of the local authority share caps to continue, and**
b) has the formula as set out in Annex C been calculated correctly?

Calculation of share ratio

2.13 As explained in paragraph 2.11 above, for every quarter, the local authority's Treasury share cap is the local authority share cap multiplied by the unadjusted share ratio which is set out in paragraph 9 of the Schedule to the Regulations as Variable L**. This is calculated as follows:

2.13.1 For each year the Treasury requires from local authorities a portion of Right to Buy receipts in the light of the reduction in the local authorities' one-off payments made under the Self-Financing Settlement of March 2012. For the five years from 2012-13, these amounts are as follows:

2012-2013	£135 million
2013-2014	£153 million
2014-2015	£168 million
2015-2016	£183 million
2016-2017	£183 million

2.13.2 In order to calculate what each local authority should pay to Treasury each quarter, the total of all local authority share caps are added up and the amount required for that quarter by Treasury is divided by the sum of those local authority share caps, the result being the share ratio for that year. So, for 2013-2014, the £153 million, divided by four to result in £38.25 million, was further divided by the total of all the quarterly local authority share caps (£16,202,328.69) which works out as:
 $£38,250,000 / 16,202,328.69$

which equals

2.360771759

2.14 We propose that this arrangement remains unchanged and, therefore, that the 2003 Regulations will be amended so as to include new share ratios for 2015-2016 and 2016-2017 using the same formulae as that used for the calculation of share ratios in the three previous years. The share ratios would therefore be:

2012-2013	2.398347729
2013-2014	2.360771759
2014-2015	2.311525846
2015-2016	2.516962222 (proposed)
2016-2017	2.491712539 (proposed)

Consultation Question 3: In the context of no significant changes to the pooling system:

- a) are you content for the existing arrangements for the calculation of the share ratio to continue, and**
b) has the formula been calculated correctly (as set out in paragraph 2.13 above)?

Adjustment for specific authorities of the Share Caps and Treasury Share Caps

- 2.15 The Government proposes to make changes to the following authorities' share caps and Treasury share caps: the London Borough of Hammersmith and Fulham; Durham County Council; Salford City Council and Gloucester City Council for the reasons set out below.
- 2.16 Durham County Council; Salford City Council and Gloucester City Council are currently in the process of transferring their stock and we anticipate that the transfer will be complete ahead of the new financial year. This means their share caps for 2015-16 and 2016-17 will be zero (as set out in the table in Annex C). Should the transfer in any one, or more, of the above authorities not take place by the start of the new financial year the Government will consider the need for amending the 2003 Regulations to ensure that the authority or authorities are able to correctly pool the required amount.
- 2.17 The London Borough of Hammersmith and Fulham's local authority share caps were over-calculated by £1,867,040.20 for the three years from 2012-2013. Consequently, their Treasury share caps were over-calculated over the same period by £4,319,227.65.
- 2.18 The Government therefore considers it is appropriate to partially correct this over-calculation over the two years 2015-2016 and 2016-2017, by reducing that authority's share caps and Treasury share caps for both years to zero (as set out in the tables in Annexes B and C).
- 2.19 Had the authority's share caps been correctly calculated, the total of its quarterly share caps for 2015-2016 and 2016-2017 would have been £1,701,760.04. Reducing them to zero means that the total of its share caps from 01 April 2012 to 31 March 2017 is still over-calculated by £165,280.16 but the majority of the error will have been corrected.
- 2.20 Had the authority's Treasury share caps been correctly calculated, the total of its quarterly Treasury share caps for 2015-2016 and 2016-2017 would have been £4,212,621.60. Reducing them to zero means that the total of its Treasury share caps from 01 April 2012 to 31 March 2017 is still over-calculated by £131,010.97, but the majority of the error will have been corrected.

2.21 The implication for other authorities is extremely small. Over the two years, their Treasury share caps will increase by 1.16%. However, mostly due to the original over-calculation of the Hammersmith and Fulham's share caps, authorities have benefitted as their Treasury share caps in the three years from 2012-2013 were 1.46% less than they should have been.

Consultation Question 4: Are you content with the proposal to set at zero the share caps for Durham County Council; Salford City Council and Gloucester City Council given the anticipated transfer of their stock?

Consultation Question 5: Are you content with the proposed adjustment for the London Borough of Hammersmith and Fulham?

Annex A: The Consultation Questions

Consultation Question 1:

In the context of no significant changes to the pooling system:

- a) are you content for the existing arrangements for the calculation of assumed debt to continue, and
- b) has the formula as set out in Annex D been calculated correctly?

Consultation Question 2:

In the context of no significant changes to the pooling system:

- a) are you content for the existing arrangements for the calculation of the local authority share caps to continue, and
- b) has the formula as set out in Annex C been calculated correctly?

Consultation Question 3:

In the context of no significant changes to the pooling system:

- a) are you content for the existing arrangements for the calculation of the share ratio to continue, and
- b) has the formula as set out in paragraph 2.13 been calculated correctly?

Consultation Question 4:

Are you content with the proposal to set at zero the share caps for Durham County Council; Salford City Council and Gloucester City Council given the anticipated transfer of their stock?

Consultation Question 5:

Are you content with the proposed adjustment for the London Borough of Hammersmith and Fulham?