



Department for
Communities and
Local Government

Proposals for the use of capital receipts from asset sales to invest in reforming services

A consultation document

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The Consultation Process and How to Respond

Scope of the consultation

Topic of this consultation:	<p>The principal sections are:</p> <ul style="list-style-type: none"> • Chapter 2 – Aims of the Proposal • Chapter 3 – A bid based criteria • Chapter 4 – How the Proposal will be implemented • Chapter 5 – Timetable • Chapter 6 – Related policy areas <p>The topic of the consultation is the flexible use of capital receipts from asset sales to invest in reforming services</p>
Scope of this consultation:	This consultation aims to gauge the level of interest from local government for the use of capital receipts to pay for the revenue costs of reforming, integrating or restructuring services.
Geographical scope:	England.
Impact Assessment:	The policy proposal does not meet the criteria for an impact assessment
Body responsible for the consultation:	This consultation is being run by the Local Government Finance Directorate within the Department for Communities and Local Government.
Duration:	This consultation will run for 8 weeks to 24 September 2013.
Enquiries:	<p>For enquiries, please contact:</p> <p>Asset.Receipts@communities.gsi.gov.uk</p> <p>030 344 42762</p>

How to respond:	By email to: Asset.Receipts@communities.gsi.gov.uk Or by post to: Capital Finance & Reserves Team Department for Communities and Local Government Zone 5/J3, Eland House Bressenden Place London SW1E 5DU
After the consultation:	The Government will publish its response to the consultation in the Autumn.
Compliance with the Code of Practice on Consultation:	This will be an 8 week consultation. In this consultation we are seeking views from local authorities and believe that this will provide sufficient time for considered responses.

Confidentiality and data protection

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

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).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, 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.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Additional copies

This consultation paper is available on the Department for Communities and Local Government website at <https://www.gov.uk/government/organisations/department-for-communities-and-local-government>. You may obtain a hard copy of this consultation paper from the address given above.

If you require this publication in an alternative format please email Asset.Receipts@communities.gsi.gov.uk stating the title of this consultation documents or online via the website at www.gov.uk/government/organisations/department-for-communities-and-local-government.

Help with queries

Questions about the policy issues raised in the document can be sent to the address given above.

A copy of the consultation criteria from the Code of Practice on Consultation is at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please email: consultationcoordinator@communities.gsi.gov.uk

or write to:

DCLG Consultation Co-ordinator
Zone 8/J6
Eland House, Bressenden Place
London
SW1E 5DU

Chapter 1

Introduction

1.1 On 27 June 2013, the Government published a spending review document 'Investing in Britain's future', page 41¹ of the document stated that:

To incentivise asset sales and support investment in transforming local services, the Government will also consult on allowing local authorities some flexibility to use their receipts from asset sales to pay for the one-off costs of service reforms.

1.2 This consultation aims to gather opinion from the local government sector to see if the idea of allowing part or even the whole of a capital receipt(s) from new asset sales to be used for a one-off revenue purpose to stimulate organisational change, is a viable and realistic option for local government to reconfigure their service areas, to bring down their ongoing revenue costs and to deliver improved services.

1.3 The proposal has two broad aims:

- Encourage good asset management planning and incentivise the appropriate sale of local authority assets so that they are put into productive use and support growth; and
- To enable additional resources, from local authority asset sales, to give a capital receipt flexibility for the one-off cost of reforming, integrating or restructuring services.

1.4 We are consulting on the principle of the proposal to gauge:

- Support for the policy proposal;
- How it could work in practice;
- The possible level of interest, to help inform decisions on the level of expenditure that could be made available.

1.5 In particular the Government wishes to gather from the local government sector a broad understanding of the type of schemes that could benefit from the proposals as well as their views on the appropriate mechanism to deliver the policy objectives.

¹ <https://www.gov.uk/government/publications/investing-in-britains-future>

- 1.6 As background to the proposal the Government is committed to ensuring that we can equip the local government sector with the tools that it needs to reconfigure and redesign its vital service areas, to benefit both local people and to maximise efficiency savings within local government and the broader public sector. The Government also wishes to continue to encourage active and efficient management of local assets.
- 1.7 In March 2013 the Government invited bids from local authorities to access a £9m Transformation challenge Award² scheme. The aim of this proposal is to support local authorities, including fire and rescue authorities, that are at the cutting edge of innovation for service transformation, so that they are going further and faster in re-engineering service delivery and achieving efficiency savings.
- 1.8 On the 26 June 2013, the Government announced as part of the spending review for 2015/16 that it will be investing £3.8bn for integrated Health and Social Care, including £2bn of new money from the NHS, and in addition will be establishing a new fund of £330m for Transforming Services, comprising:
- £200m for Troubled Families;
 - £100m for Service Transformation;
 - £30m fund for Fire and Rescue Service to drive transformational change.
- 1.9 The establishment of a £100m Service Transformation Fund will incentivise greater efficiency in local authorities, by enabling local authorities to meet up-front costs for shared services and other cost saving measures.

² <https://www.gov.uk/government/publications/transformation-challenge-award>

Chapter 2

Aims of the proposal

- 2.1 Currently the capital finance system restricts the ways in which local authorities can spend their capital receipts³. Broadly, the rule is that capital receipts may only be used for capital spending, but not revenue spending.
- 2.2 This is an important principle to ensure assets and one-off receipts do not get used inefficiently to support recurrent revenue spending that cannot be sustained.
- 2.3 The main use of capital receipts is therefore to finance the acquisition or construction of new assets, thus providing an alternative to borrowing, or to repay the principal of any borrowing undertaken.
- 2.4 Therefore local authorities may have a surplus capital asset, but cannot use the capital receipts from its sale to fund one-off revenue costs required to achieve restructuring or service transformation that reduces ongoing revenue costs. Evidence from informal expressions of interest in the Transformation Challenge Award and the better Efficiency Support Grant applications show that there is an unmet demand for service transformation but extra funds are needed to unlock them.
- 2.5 The Government proposal has the following broad aims:
 - **Encourage good asset management planning and incentivise the appropriate sale of local authority assets so that they are put into productive use and support growth;**

At present the local government sector owns an asset base with an estimated value of £233bn⁴. Some local authorities may have low or no borrowing and a limited interest in further asset purchases.

As the use of capital receipts is limited for capital purposes such local authorities may not have a fiscal incentive to streamline their asset base.

An aim of the proposal is to encourage the sale of assets whose receipts could be used by the local authority to reduce their ongoing costs and where the asset could also be used more productively to encourage local growth and / or be used as a community asset.

³ Regulation 23 of The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146)

⁴ Value of fixed assets as of 31 March 2012, Local Government Financial Statistics England No.23 2013 – <https://www.gov.uk/government/publications/local-government-financial-statistics-england-2013>

Also some capital receipts could be used to develop and strengthen long term asset management plans.

The aim of the policy is to encourage new asset sales. The proposal is not intended to apply to existing capital receipts or allow for new or increased borrowing.

- **To enable additional resources from local authority asset sales, to give capital receipt flexibility for one-off costs of reforming, integrating or restructuring services.**

It is important to note that the use of capital receipts for a revenue purpose runs counter to the principles of prudent financial management. It can never permanently solve financial difficulties, but simply postpones the need to deal with them. Therefore the aim of the proposal is to direct the revenue expenditure at one off revenue costs that will help deliver sustainability in the longer term.

- **To secure value for money.**

An aim of this proposal is to encourage restructuring and remodelling of service provision, where there is a strong investment case to do so, and where the local authority may not otherwise be able to access the funds required to deliver the service transformation.

- **To achieve the above objectives whilst controlling expenditure.**

The Government's top priority is to reduce the budget deficit. The use of capital receipts (e.g. from asset sales) for revenue purposes, scores as Public Sector Current Expenditure (PSCE) in the national accounts; it therefore impacts directly on the deficit reduction programme.

Given these macro-economic considerations, it is all the more important that the level of expenditure allowed by this proposal is carefully controlled.

Because of these wider fiscal considerations the Government will be monitoring this new flexibility closely, to ensure it is used for reform proposals which represent good value for money, whilst controlling the degree and use of directions. The intention therefore is that there will be an in-year national limit for the amount of capital receipts that can be treated as revenue.

Question 1: Do you consider that the proposal to allow some flexibility for use of capital receipts from new asset sales will provide you with a useful additional flexibility for one-off revenue costs associated with restructuring and reforming local services to deliver longer term savings?

- 2.6 We would also be very interested to see any early indicative proposals that local authorities may have, which could provide us with brief but helpful information on the potential level of expenditure that may assist with the delivery of transformation of services, joint working initiatives, and the estimated revenue savings that local government would be keen to achieve.

Question 2: To evidence base the response to question one, we would welcome (in no more than 400 words) your initial ideas for change(s) that you consider would benefit from the flexible use of capital receipts policy?

Information could include the level of funding required, type of asset(s) to be disposed, details of the service transformation and savings that could be achieved and future use of the asset(s).

Chapter 3

A bid based criteria

- 3.1 Given that there will be a need to carefully control the level of expenditure; an aim of the proposal includes ensuring that schemes that may be allowed will offer the best value for money proposals.
- 3.2 Therefore the Government considers that a bid based competitive option would be the best mechanism to achieve this, as:
- It allows the level of expenditure to be controlled and focused on local authorities with the best proposals. This is important given that this would be a flexibility which would not change the fundamental principles around capital and revenue spending;
 - A case by case basis allows each application to be judged on its individual merits; ensures that restructuring / service transformation is at the heart of any proposal; and that the winning bids contain the best value for money outcomes; and
 - Allows Government to monitor the take up of the proposal and the service transformation plans which it has enabled.
- 3.3 The Government proposes that any application for a bid based process should set out a cost / benefit analysis to demonstrate value for money. The criteria to evaluate competing applications from local authorities could include;
- **Amount of expenditure and proposed use of that revenue**
Any application would need to demonstrate the level of expenditure required and be clear that the use of capital receipts would be funding a one-off revenue cost for restructuring or service transformation, and that the costs could not otherwise be funded. The proposed use of revenues could not be for ongoing running costs of an authority.
 - **The reduction of ongoing/long-term costs**
Any application from a local authority or group of local authorities should have a reasonably worked out estimate of the ongoing efficiency savings that they hope to achieve if their application for the revenue use of capital receipts is successful. Further to this any local authority that indicated in their application that they had the potential to match fund or attract funds from a 3rd party could be looked upon favourably

- **How you plan to transform your services**

Any application should set out clearly how any use of capital receipts as revenue funding would assist in restructuring organisations or service areas, Your application could include ideas such as; proposed joint working ventures, the development of a new strategic asset management plan, the expected improvements to service delivery; and the expected wider benefits to the community from these reforms to services.

- **Working across the wider public sector**

If applicable, any application should demonstrate how it is planned to work collaboratively with other local authorities, external partners such as community organisations or other public sector bodies across boundaries.

This could perhaps be within the Local Enterprise Partnerships, in the local area, saving resources for other public sector bodies, such as by reducing the duplication of tasks and making service access easier for members of the public for example.

- **Asset to be sold**

Any application should be able to demonstrate that the asset to be sold is part of a wider asset management plan rather than being sold purely to obtain a receipt for a one-off revenue purpose.

- **Possible forward use of an asset**

Any application should show the forward use of an asset, for example sale of land to a property developer who may agree to build social housing on part of the land as part of securing the asset. Another example could be where an asset is sold at less than full market value to a community group to become a productive community asset.

3.4 Subject to the outcome of the consultation, a formal bid prospectus would be issued to implement the policy proposals. That formal bid prospectus would set out the precise criteria and would detail how bids would be assessed, including, if appropriate, the weight given to different criteria.

3.5 A bid based approach could also target the projects that have the best value for money outcomes, or to target areas where there are greater revenue pressures.

Question 3: Do you agree that these criteria should be used, or would you suggest alternative or additional measurements to decide a bid based approach and ensure a fair distribution for the proposed flexibility?

Chapter 4

How the proposal will be implemented

4.1 In legal terms there are two options for allowing the flexible use of capital receipts for revenue purposes:

- **Direction letter:**

Permission is given through capitalisation directions, which the Secretary of State has the power to issue under section 16(2) (b) of the Local Government Act 2003.

The effect of a direction is that specified revenue expenditure becomes treated as capital expenditure, so that instead of having to be charged to revenue, it may be funded from capital sources (e.g. borrowing or capital receipts), thereby increasing a local authority's financial flexibility.

Ministers have discretion under section 20 of the Local Government Act 2003 to impose other conditions: for example, that the capitalised expenditure is to be met out of capital receipts rather than by external borrowing and it would be possible to link such a direction to the disposal of a particular asset.

- **The Local Authorities (Capital Finance and Accounting) Regulations 2003 (SI: 2003/3146):**

The existing Capital Finance Regulations restrict capital receipts to use for capital spending, not revenue spending. However, these regulations do already allow the use of some portion of capital receipts for particular revenue purposes⁵.

The regulations could be worded in such a way to:

- allow for a certain type of capital receipt to be used for revenue;
- allow capital receipts to be used for certain types of revenue spend, i.e. redundancy costs; and
- limit the cumulative amount of capital receipts in a year that can be treated as revenue – i.e. up to a fiscal limit in capital receipts received by any authority in any year from one or more assets to be treated as not capital, i.e. revenue.

⁵ Regulation 23 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

- 4.2 The direction letter approach would better suit a bid based competitive option that has a constrained budget; that wishes to target specific assets and projects.
- 4.3 Whereas the Capital Finance Regulations would benefit a policy that is applied equally across all local authorities where there is a definitive reason for the use of the receipt, such as meeting the cost of equal pay compensation payments (see paragraph 6.6 and 6.7 below).
- 4.4 Therefore the Government is of the view that the direction letter mechanism should be the method by which a flexible use of capital receipts from asset sales to invest in reforming services could be allowed.

Question 4: Do you agree that a direction letter mechanism would be the best method of delivering the aims of the policy proposal?

Chapter 5

Timetable

- 5.1 In this chapter we set out the Government's proposed timetable for this policy, subject to final agreement to implement following the consultation.
- 5.2 As set out in chapter 2 the use of capital receipts for revenue purposes scores as expenditure in the national accounts. The level of expenditure allowed by the proposal needs to be carefully controlled. The intention therefore is that there will be an in-year national limit for the amount of capital receipts that can be treated as revenue.
- 5.3 The Government's default assumption is that this flexibility would apply in 2015/16, which would allow time for local authorities to plan service reforms and asset disposals. However, the bid based competition could take place in advance to allow time for implementation.
- 5.4 Furthermore, the direction letter allowing for a capital receipt to be treated for a revenue purpose can apply conditions that ensure the expenditure relates to the financial year 15/16. That does not necessarily limit the disposal of the asset to 2015/16. The table below sets out an indicative timetable for the implementation of this policy.

Event	Timing
Consultation issued	July 2013
Consultation closes	September 2013
Response to consultation	Autumn 2013
Below subject to outcome of the consultation	
Bid process commences	Winter 2013
Bid process decisions	Spring 2014
Direction letter issued	Spring 2014
Disposal of Asset	August 2013 – March 2016
Revenue Expenditure	April 2015 – March 2016

- 5.5 Before we finalise the timetable for the proposal we would welcome the views of the local government sector as to whether the proposed timetable is realistic in terms of practical delivery. For example:

- **Decision making processes**

Will local authorities be in a position to make a judgement call on when they can apply; for example if you are applying as part of a group of local authorities what would be a realistic time frame in which to come up with a joint decision to instigate a project and its associated application?

- **Sales of assets**

The timing of disposal of an asset may be difficult to manage within such a specified timetable. We would welcome views on whether such a specified timetable is realistic?

Question 5: Is the proposed timetable realistic to allow for the practical implementation of the flexible use of capital receipts proposal?

Question 6: If you felt the timetable was not realistic, what changes would you make to the proposed implementation of the policy to allow for the practical delivery of the flexible use of capital receipts?

Chapter 6

Related policy areas

- 6.1 This chapter considers how the proposal for the flexible use of capital receipts interacts with related policies.

Capitalisation

- 6.2 This additional flexibility on use of capital receipts to pay for the one-off costs of service reforms would be entirely separate from normal/standard capitalisation policies. Capitalisation is the means by which the Government, exceptionally, permits local authorities to treat revenue costs as capital costs. It is a relaxation of the accounting convention that revenue costs should be met from revenue resources.
- 6.3 Permission is given through capitalisation directions, which the Secretary of State has the power to issue under section 16(2)(b) of the Local Government Act 2003. The effect is that specified revenue expenditure becomes treated as capital expenditure, so that, it may be funded from capital sources (e.g. borrowing or capital receipts).
- 6.4 Currently capitalisation is run through a bid based process, which sets out criteria for accessing funding either for restructuring purposes or financial difficulty. There is a dedicated level of funding made available for capitalisation. The capitalisation policy for 2013/14 is available at: <https://www.gov.uk/government/publications/capitalisation-2013-to-2014-policy-and-procedures>.
- 6.5 There will be a gradual reduction in the level of capitalisation funding for a capitalisation bid process, in particular for financial difficulty, from £100m in 2013/14 to £50m in 2014/15 and finally down to £0 in 2015/16. There will therefore be no formal capitalisation fund or bid process in 2015/16. This replicates the situation in 2012/13 where there was no funding for a formal capitalisation bid process.

Equal pay flexibility

- 6.6 The amendment to the Capital Finance Regulations, which came into force on 31 March 2013 gave local authorities flexibility to use capital receipts received on or after 1 April 2012 to meet the cost of equal pay compensation payments.
- 6.7 We would expect that any local authority facing equal pay liabilities will use capital receipts to manage equal pay costs before seeking to apply for revenue treatment of any capital receipt under this proposal. In particular, as set out in paragraph 6.5 above, there will be no capitalisation fund in 2015/16.

Transformation Fund

- 6.8 This proposal on capital receipts is one of a number of measures announced in the Spending Review to promote fundamental reform of local public services. Alongside the flexible use of capital receipts, a £100m Transformation Fund is being set up to support the radical re-engineering of how local services are delivered and the realisation of efficiencies.
- 6.9 We expect to come forward later this year with more detailed proposals about how this Fund might operate. The Fund is available for 2015-16. Applications for the fund will be able to be made irrespective of whether the local authority has made any application for the flexible use of capital receipts; decisions about the amount of Fund monies to grant a local authority will have regard to the authority's available resources, including any capital receipts.

Community Asset Transfer

- 6.10 This is an established mechanism used to enable the community ownership and management of publicly owned land and buildings. The General Disposal Consent allows a range of public bodies to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' – at less than full market value.
- 6.11 Community Asset Transfer can lead to significant community benefits: social, cultural; as well as economic benefits through efficiency savings to local authorities. If done well this can support the transformation of services by bringing underused public sector assets into productive community use and/or by supporting neighbourhood level service delivery. The transfer of assets into community ownership at less than best value which also results in capital receipts received could be a disposal that could be considered for the proposed flexibility to support service transformation.

Annex A

List of questions

Question 1: Do you consider that the proposal to allow some flexibility for use of capital receipts from new asset sales will provide you with a useful additional flexibility for one-off revenue costs associated with restructuring and reforming local services to deliver longer term savings?

Question 2: To evidence base the response to question one, we would welcome (in no more than 400 words) your initial ideas for change(s) that you consider would benefit from the flexible use of capital receipts policy?

Information could include the level of funding required, type of asset(s) to be disposed, details of the service transformation and savings that could be achieved and future use of the asset(s).

Question 3: Do you agree that these criteria should be used, or would you suggest alternative or additional measurements to decide a bid based approach?

Question 4: Do you agree that a direction letter mechanism would be the best method of delivering the aims of the policy proposal?

Question 5: Is the proposed timetable realistic to allow for the practical implementation of the flexible use of capital receipts proposal?

Question 6: If you felt the timetable was not realistic, what changes would you make to the proposed implementation of the policy to allow for the practical delivery of the flexible use of capital receipts?