



Department for
Communities and
Local Government

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

Summary of Responses and Government Response



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Introduction

1. In November 2014 the Department for Communities and Local Government published its consultation paper seeking views on the amendments to the Schedule to the Local Authorities (Capital Finance and Account) (England) Regulations 2003 (“the 2003 Regulations”) governing the use of receipts arising from the disposal of council housing assets and use of the receipt arising from such disposals. The Government set out in the consultation paper that the proposed amendment to the regulations should be in place by April 2015.
2. The purpose of the proposed amendments to the Regulations was to enable local housing authorities to calculate the “poolable” amount derived from the disposal of assets for the years 2015-2016 and 2016-2017 as 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.
3. The proposals in the consultation document apply to all England’s 326 local housing authorities, although in practice only those authorities that continue to maintain a Housing Revenue Account will be affected.
4. With regard to the separate changes being made to the 2003 regulations in relation to the introduction of new local audit arrangements set out in the Local Audit and Accountability Act 2014, Government wrote to the affected bodies in early January setting out what the changes would mean and seeking confirmation of the proposed approach. The intention is still to bring forward these changes to the same timescale as the changes proposed in this Government response ie by April 2015.
5. The consultation document included a summary of the consultation questions at Annex A and these are also reproduced below:

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?

The proposals

6. We indicated in the consultation document that we did not propose to make any significant changes to the existing pooling system at this time and that our proposed change to the Regulations was to set out for local authorities the formulae to calculate the poolable amount for the financial years 2015-2016 and 2016-2017 given that the existing Regulations only cover the financial years to 2014-2015.
7. The proposed amendments, as set out in the consultation document, 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.
8. We made it clear in the document that we were not seeking views on the principle of pooling itself. The Government considers 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.
9. The closing date for receipt of responses was 19 December 2014
10. We received 23 responses with the vast majority from local housing authorities. The Department would like to thank everyone who took the trouble to respond. A full list of those who responded is at Annex 1.
11. Enquiries about this document should be addressed to:
hrapooling@communities.gsi.gov.uk.

Overview of Consultation Responses

12. The following sections summarises the comments received to each question, the Government's response to comments and also sets out how the Government now intends to proceed.
13. A total of 23 responses were received by the consultation closing date from organisations falling into the categories as follows:

	Number of Respondents	Percentage Rate
Local housing authorities	22	95.7%
Professional bodies	1	4.3%
Total	23	100%

14. As evident in the table above local housing authorities represented the majority of responses received.
15. Not all respondents commented on or responded to all of the questions raised as part of the consultation exercise. We also received a small number of informal enquiries from local authorities about the Regulations which are not included in the above figures. These sought clarification on aspects of the consultation. .

Summary of Responses and Government Response:

16. A summary of the general comments that were made and the responses to each consultation question and the Government response are out below.

General Comments

17. Whilst the Government had not sought views on the principle of pooling itself a number of respondents made the general point that, in their view, councils should be allowed to retain all of the receipts from the sale of right to buy homes and that the pooling system should be ended. They also commented that pooling was inconsistent with the principles underpinning the self-financing settlement and that ending pooling would increase resources available for local authority housing.

Government Response:

18. Whilst the Government continues to support the provision of new affordable housing through a range of policy and fiscal measures it has no plans to end the pooling system at this time. It considers that it is a necessary part of addressing the national deficit inherited from the previous Administration.

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?

19. Whilst some respondents did not agree that the pooling system should continue 18 of the 23 respondents said that, in the context of no significant changes, they were content that the existing arrangements for the calculation of assumed debt to continue and that the formula was calculated correctly.
20. In their response to the consultation Salford City Council commented that whilst the majority of their stock was going through the stock transfer process they would be retaining stock within the Pendleton Private Finance Initiative Scheme and as such the consultation document did not properly reflect the partial stock transfer.
21. One authority asked why the average attributable debt per dwelling used in the calculation of assumed debt in the Annex D were different from those in the self-financing settlement.

Government Response:

22. On the average attributable debt per dwelling used in the calculation of the assumed debt, the slight difference between this and the average attributable debt

as it appears in the baseline model published at the time of the Self-Financing Settlement (for instance Redbridge's £21,910 to £21,540) is because the calculation of the former figure excludes forecast Right to Buy sales and other forecast housing stock movements.

23. As the majority of respondents said that they were content that the existing arrangements for the calculation of assumed debt should continue and with the proposed formula the Government proposes to make the necessary changes to the Regulations.

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?

24. 18 respondents were either content with the proposal in consultation question 2 (a) and 2 (b) or made no direct comment. Five respondents did not agree with that the existing arrangements for the calculation of the local authority share caps to continue because they either did not agree that the pooling system should continue or because they had reservations about the share caps for local authorities in the light of other stock transfers. Three respondents made similar observations about question 2 (b).
25. In their response to the consultation Salford City Council commented that whilst the majority of their stock was going through the stock transfer process they would be retaining stock within the Pendleton Private Finance Initiative Scheme and as such the consultation document did not properly reflect the partial stock transfer.
26. Cambridge City Council commented that authorities with a significant shared ownership property portfolio were unfairly penalised as, although receipts from all properties were included in the calculation of the share caps, only the sale of right to buy properties and not shared ownership were included to determine the average capital receipt.
27. Winchester City Council also commented that their Right to Buy sales had also been over estimated initially and requested that a similar approach as has been adopted for the London Borough of Hammersmith and Fulham be applied to them.

Government Response:

28. The Government has set out its position regarding the overall shares by local housing authorities in the light of stock transfer at paragraph 35 below. Given that Salford will be retaining stock as part of a Private Finance Initiative, they will remain within the pooling system. We have therefore made the necessary changes to the proposed share caps on the basis of the information given to us by Salford.

29. We have considered the points made by Cambridge City Council and by Winchester City Council and agree that amendments should be made to their share caps. This will both reflect the fact that we have not taken to account shared ownership units and other non-Right to Buy sales of dwellings when determining the average capital receipt in Cambridge and Winchester and that previously their share caps have been over estimated by £441,806.22.
30. As a result, Cambridge's 2015-16 quarterly share cap will change from £113,803.73 to £74,858.54. And Winchester's will change from £76,585.14 to £5,078.77.

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)?**

31. Ten of the respondents did not agree with consultation question three (a) because they either did not agree that any element of the capital receipt be returned to the Government or because they argued that the Treasury share ratio should take into account the fact that three authorities are transferring stock. A number of authorities argued that because three authorities were transferring stock they were at a disadvantage as the overall sum to be returned to the Treasury was being divided between a smaller number of authorities.
32. Thirteen of the respondents were either content with the proposal in consultation question 3 (a) or made no direct comment. The majority of the respondents were happy that the formula had 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?

33. 16 of the respondents said they were content with this proposal or made no explicit comment on it. The City of Gloucester said they were content; Salford City Council commented (as set out in paragraph 25 above) that the share caps needed to be amended to reflect the fact that they had a partial stock transfer. The Department received no response from Durham County Council.
34. Seven respondents said that they did not agree with the proposal for the following various reasons: one commented that no change should be made until the stock transfers had happened and asked whether receipts from any preserved Right to Buy would be pooled; four respondents said that stock transfer by some authorities should not result in an increased share cap for the remaining authorities and one

respondent suggested that the stock transfer authorities should make up the difference.

Government Response:

35. The Government is working on the basis that the various stock transfers will take place by the start of the new financial year and it is therefore necessary to have amending Regulations in place from that point. It will look to quickly change the Regulations should any of the stock transfers not take place as we expect.
36. We have considered the question raised about pooling of preserved Right to Buy receipts. The Government considers that whether or not receipts from preserved Right to Buy sales are returned to an authority is a matter between the local housing authority and the transfer authority. The Government does not therefore consider there is any need to change policy or legislate here.
37. The Government has also considered whether it should adjust the amounts owed to the Exchequer by the remaining stock-holding authorities as suggested by some of the respondents. Its position is that overall level of the Treasury cap should remain the same during this Spending Round period and whilst the Government is addressing the national deficit. Furthermore, the Government paid off a significant amount of housing debt as part of the Self-Financing Settlement in 2012 and in return it now asks for an element to be returned to the Exchequer.

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

38. 20 of the respondents were content with this proposal or made no explicit comment. The London Borough of Hammersmith and Fulham commented that they were content with this proposal subject to the resolution of a related pooling issue regarding a number of properties sold in 2008/09.
39. One respondent said that they recognised the need to make an adjustment for the London Borough of Hammersmith and Fulham but were concerned, as was one other respondent, about the potential impact on other authorities share caps.

Government Response:

40. As a result of the comments to this consultation question and the further discussions the Department has had with the London Borough of Hammersmith and Fulham, we will be implementing this adjustment but making some small changes. These will reflect the fact that, as a result of ongoing clarification the authority's pooling liabilities in 2008-09, it was also discovered that the over-calculation of its share caps was not as great as it had originally appeared. This means that its share cap and Treasury share cap will not be set at zero in 2016/17 but at £19,826.70 and £117,999.54 respectively.
41. As a result of the consultation it has also become clear that two further authorities – Cambridge City Council and Winchester City Council – have also had their share caps set to a historically high level and as a consequence have been receiving too

few Right to Buy receipts. The Government proposes to rectify this issue by amending the proposed 2015-16 Treasury share caps for those authorities to £199,401.53 and £27,602.71 respectively.

42. The amendments for Cambridge City Council and Winchester City Council will have a small additional impact on other authorities' Treasury share caps, but they are balanced a little by the less extensive amendment required for Hammersmith & Fulham, so that it is no more than 0.3% overall. We think this is a fair and appropriate response.

Annex 1 – Respondents to the Consultation.

The Local Government Association
Birmingham City Council
Cambridge City Council
City of Stoke-on-Trent
Crawley
Fareham Borough Council
Gloucester
Havering
London Borough of Enfield
London Borough of Hammersmith and Fulham
London Borough of Haringey
London Borough of Lambeth
London Borough of Redbridge
Milton Keynes Council
Newcastle upon Tyne City Council
North West Leicestershire District Council
Runnymede
Salford City Council
Slough Borough Council
St Albans City and District Council
Stroud District Council
Wigan
Winchester City Council