



HM Treasury

Transfer of functions from the Public Works Loan Board:

**consultation on new governance
arrangements**

May 2016



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Foreword

The Public Works Loan Board (PWLB) is an independent and unpaid statutory body, which originated in 1793 and became established on a permanent basis in 1817. Since 1946 it has consisted of up to 12 Commissioners appointed by the Crown, who are unpaid by law. The functions of the Commissioners are to consider loan applications from local authorities and other prescribed bodies and, where loans are made, to collect the repayments.

However, since 2004, the focus of decision-making has shifted, with local authorities now responsible for identifying projects for which they require funding and whether they can afford to repay any loans. Accordingly, at present, the role of the PWLB as an independent decision-making body is no longer required. The day-to-day responsibilities of the PWLB have been delegated to the United Kingdom Debt Management Office (DMO), an executive agency of HM Treasury (the Treasury), since July 2002.

This consultation proposes a change to the governance arrangements relating to the function of central government lending to local authorities. It proposes that the PWLB is abolished, using the powers in the Public Bodies Act 2011, and its functions are transferred to the Commissioners of the Treasury.¹

The proposals only affect the governance arrangements and do not change any of the policy or operational aspects of lending to local authorities. As a governance change, central government will continue to lend to local authorities as now in accordance with the prudential regime and the policy on rates and repayment terms will remain the responsibility of the Treasury.

We welcome any comments on the proposals and questions outlined in this paper to help inform and finalise the government's plans.

Finally, whatever the outcome of this consultation I would like to take the opportunity, on behalf of the Treasury and the DMO, to say thank you to all those Commissioners past and present that have performed the role of PWLB Commissioner. For over 200 years they have played a vital role in the ability for local government to fund capital expenditure and the construction of important local infrastructure.



Harriett Baldwin MP

Economic Secretary to the Treasury

¹ 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.

Executive summary

The rationale for abolishing the PWLB is that the role of the Commissioners in approving loans is nowadays no longer needed, the appointment of Commissioners carries an administrative burden and improvements and efficiencies can be achieved through a more streamlined and up-to-date governance arrangement.

The rationale for transferring the PWLB's existing functions to the Treasury is that whilst the role of PWLB is no longer required, the functions are still needed and transferring them to the Treasury broadly aligns policy and operational responsibilities to current practice.

The Public Bodies Act 2011 (the "Act") 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. Ministers may only apply these powers to public bodies listed in the relevant schedules to the Act. The Act requires ministers to consult on their proposals before laying a draft order.

In particular, section 1 of the Act enables ministers to abolish bodies listed in Schedule 1 to the Act. Schedule 1 to the Act (Power to abolish: bodies and offices) was amended by Section 54 of the Infrastructure Act 2015 to include the Public Works Loan Commissioners (PWLB).

Section 8 of the Act requires that a minister may make an order only if the minister considers that it serves to improve the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to ministers; and also that it does not remove any necessary protection or prevent any person from continuing to exercise a right or freedom which that person might reasonably expect to continue to exercise.

This consultation addresses the order that we propose to make to abolish the PWLB and to transfer its statutory functions to HM Treasury.

1 Introduction

1.1 The Public Bodies Act 2011 (the “Act”) establishes a framework for the abolition of a prescribed range of public bodies. The bodies in relation to which the power of abolition may be used is prescribed in Schedule 1 to the Act (Power to abolish: bodies and offices). The list of prescribed bodies in Schedule 1 was amended through the Infrastructure Act 2015 to include the Public Works Loan Commissioners (PWLB).

1.2 The Act provides that the actual reforms will be undertaken by means of secondary legislation, in the form of an order. The government proposes to use the powers in the Act to implement the proposals outlined in this consultation in relation to the PWLB.

1.3 The Act requires that ministers consult on their proposals before laying a draft order. On that basis, comments are invited on these proposals that might be effected through an order under the Act, subject to the outcome of this consultation. All responses, including those which propose an alternative to the government’s preferred option, will be given due consideration.

1.4 The order effecting the abolition of the PWLB will be made under sections 1 and 6 of the Act (powers to abolish and make consequential, supplementary, incidental or transitional provision, or savings).

1.5 Section 10 of the Act requires that a minister proposing to make an order under section 1 of the Act must consult:

- the body or holder of the office to which the proposal relates
- such other persons as appear to the minister to be representative of interests substantially affected by the proposal
- Scottish ministers, if the proposal relates to any matter, so far as applying in or as regards Scotland, in relation to which the department exercises functions (and where the consent of the Scottish Parliament is not required under section 9)
- a Northern Ireland department if the proposal relates to any matter, so far as applying in or as regards Northern Ireland, in relation to which the department exercises functions (and where the consent of the Northern Ireland Assembly is not required under section 9)
- Welsh Ministers, if the proposal relates to any matter, so far as applying in or as regards to Wales, in relation to which Welsh ministers exercise functions (and where the consent of the National Assembly for Wales is not required under section 9)
- where the functions affected by the proposal relate to the administration of justice, the Lord Chief Justice
- such other persons as the minister considers appropriate

1.6 This consultation is being conducted in line with the ‘Consultation Principles’ issued by the Cabinet Office on 14 January 2016.¹

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf.

1.7 In accordance with the Better Regulation Framework Manual,² this consultation document does not contain an impact assessment, as this is a proposed governance change which does not impact on business.

1.8 The following groups have been notified of the publication of the consultation paper:

- bodies we are required to consult under section 10 of the Act
- key representative groups identified by departmental officials

1.9 A full list of those stakeholders that will be consulted directly can be found at Annex A.

1.10 This list is not meant to be exhaustive or exclusive and responses are welcomed by anyone with an interest in, or views on, the proposals set out in this consultation.

How to respond

1.11 This consultation will run for twelve weeks and will close on 3 August 2016. Responses should be sent by email to:

pwltransfer@hmtreasury.gsi.gov.uk

1.12 Alternatively you can write to:

Consultation on PWLB Transfer
Local Government and Reform Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Public Works Loan Board (PWLB)

1.13 The function of PWLB is to lend money to local authorities, and other specified bodies, and to collect repayments. There have been a number of bodies which have carried out this function over time, and the post of PWLB can be traced back, directly or indirectly, many hundreds of years. A brief history of the PWLB is provided in Annex B.

1.14 Since the introduction of the prudential regime in 2004, local authorities are free to finance capital projects by borrowing without government consent, provided that they can afford to service their debts out of their revenues. Local authorities are able to borrow from any willing lender in the UK or abroad but only in sterling. Most borrowing is via the PWLB, which provides 75% of borrowing, with the rest from other sources like banks, building societies, the European Investment Bank and bonds.³ The proposed governance change will not impact on the prudential regime or the ability of local authorities to borrow.

1.15 Nearly all borrowers are local authorities requiring loans for capital purposes. Under Section 13 (3) of the Local Government Act 2003 the security for money borrowed by a local authority, together with interest, is charged indifferently on all its revenues: all securities created rank equally without any priority.

1.16 Monies for PWLB loans are provided by section 3 of the National Loans Act 1968 and drawn from the National Loans Fund (NLF) which is the government's main borrowing account

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf.

³ <https://www.gov.uk/government/statistics/local-authority-borrowing-and-investments-2014-to-2015>

and is administered by the Treasury. Consequently, credit risk on PWLB debt is currently borne by the NLF.

Administration of PWLB

1.17 In 2002, the management and operation of the PWLB became the responsibility of the DMO.⁴ The Commissioners have delegated to the PWLB Secretary, a civil servant employed by the DMO, day-to-day responsibilities for authorising loans, collecting due payments and preparing the Annual Report and Accounts. The Secretary's role is akin to being Accounting Officer of the PWLB and they attend meetings of the Commissioners, which take place annually.

1.18 The interest rates on loans provided by PWLB are directly linked to gilt yields and the process of advancing and receiving payments is closely aligned with the other operational activities of the DMO.

Rationale for change

1.19 Although the scope of the functions of the PWLB has changed over time (see Annex B), the governance, composition, and status of the PWLB have not materially changed since the Public Works Loans Act 1875. It is the government's view that the time is right to consider whether the governance, composition and status of the PWLB is fit for the twenty-first century, matches the current arrangements for local government finance and accords with the principles of modern public administration.

1.20 It is the government's view that since the introduction of the prudential regime the need for an independent loan approval process has been removed. The prudential regime imposes the obligation to assess affordability on the borrower. In effect, this means that the PWLB no longer exercises any discretion or takes material decisions. However, if they wished to exercise their powers, the Commissioners could, in theory, do so. This would be contrary to the prudential regime as local authorities are responsible for making their own decisions on borrowing. The change in how loans are approved is also reflected in the fact that the PWLB has delegated all of its administrative activities to officials in the DMO.

1.21 Further, the introduction of the statutory charge which secures loans against future revenues of the borrowing authority means that the PWLB no longer needs to assess the suitability of the security arrangements in relation to each loan: it is sufficient for there to be a periodic assessment of the statutory charge arrangements.

1.22 In respect of town and parish councils (in England) and town and community councils (in Wales), PWLB requires additional assurance in the form of borrowing approvals granted by the Department for Communities and Local Government and Welsh government respectively. Similarly, for drainage boards, before PWLB is able to lend it requires a loan consent issued by the Department for Environment, Food and Rural Affairs.

1.23 On the basis outlined above, the government does not think it is appropriate for independent commissioners to approve loan applications under the existing borrowing regime.

1.24 However, despite the fact that the PWLB does not exercise any real discretion, there is a statutory requirement to have 12 Commissioners. The process involved in maintaining a sufficient number of Commissioners creates an administrative overhead for all the government departments involved. This includes work for the DMO, the Treasury and the Cabinet Office as

⁴ The DMO is responsible for meeting the government's financing needs through the sale of UK government bonds ("gilts") and was considered the most appropriate place for the operational function of the PWLB. The DMO is legally and constitutionally part of the Treasury and, as an executive agency, it operates at arm's length from ministers.

well as for those involved in seeking formal sign-off by the Chancellor of the Exchequer, the Prime Minister and finally the Head of State by Royal Warrant.

1.25 There is also an ongoing overhead of ensuring that the Commissioners remain able to conduct their activities without any potential conflicts of interest and/or the risk of bringing the function of the PWLB into disrepute. This requires the collation of regular declarations from the Commissioners to mitigate these risks.

1.26 The status of the Commissioners also complicates the line of accountability to Parliament as they do not have the traditional accounting officer framework that normally applies to central government bodies of this nature. Abolishing the Commissioners will remove bureaucracy and put local authority lending operations under more modern governance arrangements and ensure that Ministers and Accounting Officers under the new arrangements are properly accountable to Parliament.

Q1) Do you agree that the PWLB (the statutory body consisting of twelve appointed Commissioners) should be abolished?

New governance arrangements

2

2.1 If the PWLB is abolished, the function of lending central government money to local authorities will need to continue in another form. It is the government's view that the current prudential regime and other architecture around local authority borrowing and central government lending works well. Accordingly, the government does not propose altering the substance of the arrangements of how central government lends to local authorities and other authorised borrowers. However, it is the government's view that the changes in circumstance outlined above warrant abolishing the PWLB and transferring its functions to an alternative body.

2.2 The body to which the functions are transferred would enjoy the same powers as the PWLB currently enjoys, and would be subject to the same duties and obligations as currently apply to the PWLB, including:

- ensuring that the security arrangements are sufficient¹
- ensuring that no loan exceeds the statutory maximum term of 50 years²
- preparing a report of its annual transactions and presenting this report to Parliament³

2.3 The body to which the functions are transferred would also be able to exercise the same powers as the PWLB may at present, including:

- appointing a secretary⁴
- exercising any remedies currently available to the PWLB in the event of a default⁵
- the power to deal with any security of which it has taken possession⁶

2.4 When considering the various options for reform, the Treasury has been guided by the principle that any chosen proposal should not introduce changes which will prevent any person, who currently enjoys rights or freedoms under the legislative arrangements, from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

2.5 This section explores the possible options for who the powers could be transferred to and describes the governance arrangements that could be used to support it.

Transfer powers to the Treasury (Option 1)

2.6 One option is that the functions of the PWLB are transferred to the Treasury. Under this option the Treasury would delegate the operational responsibility to the DMO. This means a secretary appointed under these arrangements would no longer need to stand in the place of an Accounting Officer. Instead, it would be for the Principal Accounting Officer of HM Treasury to

¹ Pursuant to section 9 of the Public Works Loans Act 1875.

² Pursuant to section 11 of the Public Works Loans Act 1875, as amended.

³ Pursuant to section 1(3) of the Public Works Loans Act 1875.

⁴ Pursuant to section 6 of the Public Works Loans Act 1875.

⁵ For example, taking possession of property on default of payment pursuant to section 21 of the Public Works Loans Act 1875.

⁶ Pursuant to section 22 of the Public Works Loans Act 1875.

make appropriate arrangements to delegate this responsibility within the Treasury Group, as is usual for departments and their arm's length bodies.

2.7 Because the DMO is legally and constitutionally part of the Treasury, this option will ensure that the operational arm would have a clear line of responsibility into the Treasury, who would be accountable for the overall function. Further, because the DMO operates at arm's length from ministers, the DMO will continue to retain a level of autonomy in the running of the operational process.

2.8 The governance arrangements would align with what currently happens in practice. The risk management and internal control framework would, as it is now, be managed within the wider DMO system of internal control which is based upon what the DMO Accounting Officer, with the support of the DMO Managing Board, considers to be appropriate. This arrangement would continue to apply to manage the facility's operational risk with the lending facility's credit risk borne, as now, by the NLF, and will align responsibility for lending with administration of NLF funds.

2.9 Under the terms of the proposal, none of the existing statutory protections available to the borrowers will be removed. Accordingly, the prohibitions in section 8(2) of the Act do not prevent the Treasury from choosing this option.

Benefits

2.10 In accordance with the purpose test normally applied to such reforms made under the Act, we believe the benefits of this option to be as follows:

- **Securing appropriate accountability to ministers** – the PWLB has a blurred and outdated line of accountability which dates back to 1875. Under this option, Treasury Ministers will have direct ministerial responsibility, and will be accountable, for central government lending to local authorities. The operational responsibility of the lending function would be delegated to the DMO, an executive agency of the Treasury, and would be supported by relevant agreements defining the roles and responsibilities of both parties. This proposed governance framework aligns with current policy and operational responsibilities in respect of this function. That is, the PWLB operates within the policy framework set by the Treasury whereby loans to local authorities are funded from the NLF and the lending functions are carried out by the DMO.
- **Efficiency** – the current appointment process for Commissioners is lengthy and involves a thorough selection process including background checks. It also requires approval from senior government ministers and the issue of a Royal Warrant. In general, the process involved is considered to be entirely disproportionate to the role and responsibilities exercised by the Commissioners. In recent years, it has also proved difficult to identify suitable candidates willing to take the position of Commissioner given the terms of the appointment and the lack of any meaningful role. One of the benefits of this option is it would remove the need to appoint specific individuals to a role. The Commissioners of the Treasury hold their post as a function of holding other government posts. Accordingly, there will be no need for any additional processes above those which exist at the moment for the appointment of the Commissioners of the Treasury.
- **Effectiveness** – although in practice the Commissioners have effectively delegated their powers to the Secretary and officials in the DMO they retain the right to intervene in policy and operational matters. This may impact on the effectiveness of the lending function. In addition, the Treasury is responsible for lending policy and

for setting interest rates on loans (as they are funded from the NLF). Accordingly, it makes sense for the Treasury to hold the relevant powers to lend to local authorities. It also provides the maximum flexibility for accommodating any future developments, not that the Treasury currently anticipates any changes to the current arrangements.

- **Economy** – the appointment process for PWLB is complex and can take many months to complete, involving several different government departments and teams. As a result, the actual cost of the appointment process is difficult to calculate with any degree of accuracy but it is fair to judge the cost as disproportionate to the value added from the role currently served by Commissioners. There is also the administrative overhead of collating annual declarations from all serving Commissioners and producing a separate Annual Report and Accounts for the PWLB and the process involved in laying it before Parliament. The amount of time taken to recruit and maintain the group of Commissioners is estimated to be up to 40 days per year and combined with the savings from not having to prepare a separate Annual Report and Accounts would deliver a real, albeit relatively small, economic benefit. The DMO also utilises the same systems and processes that it uses for its other operational responsibilities thereby already benefiting from economies of scale and a share of overall overheads.

2.11 For these reasons, this is our preferred option.

Transfer to another legal entity (Option 2)

2.12 This option would be to transfer the necessary powers to another entity (e.g. the Department for Communities and Local Government) and for them or the DMO to carry out the operational function. After careful consideration, the Treasury has concluded that it is not viable to split the responsibility for the legal powers and the operational responsibility across different government departments as this itself would introduce governance complications caused by a division of ministerial accountability. Accordingly, any entity which takes on the functions of the PWLB will also have to take on the administrative functions currently exercised by the DMO.

2.13 We do not think other government departments provide the required level of infrastructure to support a cost effective operation. Further, the DMO clearly has the expertise and infrastructure to carry on the operational functions.

2.14 This option would also require additional governance to link the process into the statutory requirement to ensure the NLF does not lend at a loss. This is therefore likely to add another layer of bureaucracy, complexity and potential risk into the process as the responsibility for the NLF will need to remain with the Treasury.

Benefits

2.15 The benefits of this option have been assessed using the same categories as option 1.

- **Efficiency** – the abolition of PWLB Commissioners would introduce some efficiencies as described above, but the creation of a new entity to take on the function could involve the appointment of another set of individuals to exercise the relevant powers and identify suitable resources to carry out the operational process. Depending on the constitution of the entity this may require ongoing public appointments that would reduce any benefits achieved from the abolition of the PWLB Commissioners.

- **Effectiveness** – if the powers are transferred to a new entity it would create a more divergent range of bodies involved in the overall process. The Treasury has oversight of government expenditure and will continue to be responsible for the policies relating to lending to local authorities as well as the responsibility for setting interest rates on loans. If another entity held the powers to lend, the process for making decisions would become more fragmented and, with an increased risk of inconsistency in the objectives of the entities involved, would be much less effective. Similarly, the DMO is responsible for issuing gilts and monitoring real time yields in the gilt market (on which interest rates are set) and so it is likely to be less effective for another entity to calculate and apply the appropriate rate to loans.
- **Economy** – as well as the cost of transferring or setting up a new entity, there would be inefficiencies in operating a function that has relatively small volumes (compared with the economies of scale generated by the DMO as it has integrated the operation with its other internal systems and processes). Another entity would have to invest in the technology required to monitor real time gilt yields and set interest rates in a manner to protect the NLF. This level of market data alone is likely to cost in the several thousand pounds per year – in addition to the costs of setting up processes to book, settle and account for advances and repayments which would add many tens of thousands to the cost each year.
- **Securing appropriate accountability to ministers** – the creation of a new entity not directly responsible to the Treasury would potentially have different ministers accountable for the lending function and lending policy. This could lead to a lack of a clear or coherent line of accountability for the overall lending process.

Q2) Do you agree that option 1 (i.e. transfer powers to the Treasury) provides the most effective arrangement to replace the PWLB?

3 Devolution

3.1 At present, under the various devolution settlements, central government lending is a matter reserved to the Westminster Parliament.

3.2 It is the Treasury's opinion that the proposed changes will not fall within the legislative competence of any of the devolved authorities and that the proposals do not modify the functions of any of the persons listed in section 9 of the Act.

3.3 Accordingly, it is the Treasury's view that the proposals do not require the consent of any of the devolved authorities. However, the Treasury shall discuss the proposals with the devolved authorities.

Q3) Do you agree that the proposals do not give rise to any devolution issues?

4 Key features

4.1 The key changes and features of the preferred option 1 are as follows:

- The entity PWLB will cease to exist after abolition and the post of PWLB Commissioners will cease to exist from the transition date
- The order will facilitate the transfer of all existing loans and security to the new lender
- The power to lend to eligible borrowers will transfer to the Treasury, which, for local authorities in England, Scotland and Wales, will continue to rely on the statutory security offered by a local authority under part I, Local Government Act 2003
- Powers to charge a fee will be transferred but the present fee levels will remain unchanged
- PWLB has dormant powers to lend to certain bodies other than local authorities, specifically fishery harbours and housing associations, on the security of land and property. The powers will pass to the Treasury and, at present, we anticipate there will be no change in the current policy of choosing not to lend to these bodies. Residual loans to harbours will be allowed to run to term and any security transferred to an appropriate and, if possible, existing legal entity who has relevant responsibilities
- PWLB has powers to transfer security under section 38 of the Public Works Loans Act 1875. These powers, which amount to a power to transfer debt from one borrower to another, will be transferred to the Treasury and, as now, will only be exercised in the case of the statutory reorganisation of local government
- The National Loans Act 1968 provides for PWLB lending to be sourced from the NLF and interest rate policy to be set by the Treasury, which DMO routinely applies on Treasury's behalf. The 1968 Act will be amended so that it applies to the new lending facility
- Redundant provisions, such as the requirement to bank only with the Bank of England, will cease. The banking arrangements that currently exist for the advance of loans and collection of repayments would be expected to continue under the new governance arrangements
- The PWLB currently produces an Annual Report and Accounts which is laid before Parliament. On abolition, we propose the accounts for the new lending facility be included (but not consolidated) in the DMO's Annual Report and Accounts, which are currently laid before Parliament by the National Audit Office, containing the DMO Agency Accounts and Debt Management Account (DMA) with a single governance statement

Q4) Do you agree that the proposed changes will have a negligible impact on borrowers?

Use of the Public Bodies Act 2011

5

5.1 Section 7 of the Act imposes restrictions on when ministers can use the power to abolish bodies. Section 7 provides that

“the modification or transfer of a function by an order under sections 1 to 5 must not prevent it (to the extent that it continues to be exercisable) from being exercised independently of Ministers in any of the following cases”

(2) Those cases are –

- where the function is a judicial function (whether or not exercised by a court or a tribunal)
- where the function’s exercise involves enforcement activities in relation to obligations imposed on a Minister
- where the function’s exercise otherwise constitutes the exercise of oversight or scrutiny of the actions of a Minister”

5.2 The Treasury has considered whether section 7 of the Act prevents ministers from using the power in section 1 of the Act to abolish the PWLB and transfer its functions to the Treasury. The Treasury has concluded that the functions of the PWLB do not fall within any of the cases listed in section 7(2) of the Act:

- the PWLB does not exercise any judicial functions
- the PWLB’s functions do not include any “enforcement activities” as defined in section 7(4) of the Act
- the exercise of the PWLB’s functions does not constitute, and never has constituted, the exercise of oversight or scrutiny on the actions of any minister

5.3 Accordingly, the Treasury has concluded that the proposed use of the power conferred by section 1 is not prohibited under section 7 of the Act.

6 Summary of questions

6.1 Respondents to this consultation are invited to provide any feedback relating to the proposed abolition of the PWLB but the following is a list of specific questions that HM Treasury has provided to help facilitate the collation of responses.

Q1) Do you agree that the PWLB (the statutory body consisting of twelve appointed Commissioners) should be abolished?

Q2) Do you agree that Option 1 (i.e. transfer powers to the Treasury) provides the most effective arrangement to replace PWLB?

Q3) Do you agree that the proposals do not give rise to any devolution issues?

Q4) Do you agree that the proposed changes will have a negligible impact on borrowers?

Stakeholders notified of the publication of the consultation paper

A

A.1 Please note that these stakeholders have been identified as having a specific interest in the abolition of the PWLB. Responses are not limited to those listed and views from others with an interest are welcomed.

PWLB Commissioners

Local Government Association

Scottish and Welsh governments

Chartered Institute of Public Finance and Accountancy (CIPFA)

Public Works Loan Board – B a history

PWLB – the early years

B.1 Originally known as Exchequer Loan Commissioners, the PWLB Commissioners were first appointed as an ad hoc body in 1793 to alleviate commercial distress resulting from the trade recession which followed the French Revolutionary Wars.

B.2 In 1817 another single purpose body of Commissioners, known as Exchequer Bill Commissioners, were appointed to provide relief following the Napoleonic Wars. They were to receive “*no fee, reward or emolument or gratuity whatever*” and their task was to consider applications in respect of any works of a public nature which might aid employment. In subsequent years, instead of appointing further bodies of Commissioners, Parliament prescribed additional purposes for lending for the existing Exchequer Bill Commissioners thus creating the continuous office of the Commissioners which has survived to the present time. Over the next 50 years a considerable number of public projects were financed by loans advanced by the Exchequer Bill Commissioners, including, in 1826, £400,000 for improvements to Charing Cross and the Strand which involved the formation of Trafalgar Square. In 1832, £250,000 was used for the construction of the Rotherhithe Tunnel under the River Thames and, in 1846, £200,000 for the establishment of Battersea Park.

B.3 The next major landmark was the Public Works Loans Act 1875 which created the PWLB, which replaced the Exchequer Bill Commissioners. The purpose of the PWLB was different from that of the Exchequer Bills Commission and the Exchequer Loan Commissioners as it was not focused on relieving commercial distress, but rather on providing funding to certain bodies for certain categories of expenditure. The Public Works Loans Act 1875, together with the National Loans Act 1968, remains the prime statutory basis for the constitution, duties and operations of the PWLB. The Public Works Loans Act 1875 introduced a requirement that the PWLB make an Annual Report to Parliament.

B.4 Since the Public Works Loans Act 1875, there have been many changes to the scope of the work of the PWLB, which are set out below. However, there has been very little change to the governance arrangements, including the manner by which the PWLB is held accountable for its work, which is essentially based on a Victorian model of public administration.

Scope of the PWLB’s work and sources of funding following the Public Works Loans Act 1875

B.5 In 1887 the method of funding lending by the PWLB was changed as it had become increasingly difficult to estimate the amount of loan applications. A Local Loans Fund was created pursuant to the National Debt and Local Loans Stock Act 1887, which was financed by the issue of Local Loans Stock, borrowings on the security of bonds, temporary borrowing and repayments of loans made. Pursuant to the terms of the Public Works Loans Act 1887, funds raised under the National Debt and Local Loans Stock Act 1887 were used to fund lending by the PWLB.

B.6 In 1897 the responsibility for fixing the Board’s interest rates became vested in the Treasury, as is still the case today.

B.7 By the end of the First World War the foundations of the present local government structure were firmly in place and substantial funding was required for extensive development programmes of local authorities, particularly for housing and town planning; in 1921-22 nearly £49 million was lent for housing alone. By 1939 total lending by the PWLB had reached almost £600 million.

B.8 Towards the end of the Second World War, the Treasury issued a memorandum to local authorities which referred to the heavy demands on the money market that would be made after the end of the hostilities. It was proposed that local authorities should borrow for their capital development programmes through the government who would themselves raise money as part of their general borrowing programme. The rates of interest on loans to local authorities would be determined by the government's own credit and the advances would be made through the PWLB.

B.9 In 1963, a government white paper, noting the increased reliance of local authorities on temporary borrowing, proposed greater access to the PWLB in return for a limitation on temporary debt under a Quota System.

B.10 The National Loans Act 1968 re-organised the accounting arrangements and, since then, monies for PWLB loans are provided by section 3 of the National Loans Act 1968 and drawn from the National Loans Fund (NLF). Certain obsolete or duplicated lending powers of the PWLB were repealed in the 1968 Act and the remainder consolidated. The Treasury's power to fix the interest rates on loans made by the PWLB were re-enacted in terms corresponding with those prescribed for other loans made out of the NLF.

B.11 In 1982 the government, in support of its monetary policy, set out to reduce the dependence of local authorities on bank borrowing. The PWLB was asked to take steps to increase their share of lending and in a short time they revamped their lending facilities from being a provider of solely longer term fixed rate funding which took up to ten days to advance to a wide range which included variable rate loans and one year minimum periods.

B.12 Whilst the scope of the PWLB's work, and the source of funding, changed over time, ultimately the PWLB was still responsible for assessing whether to lend money and to assess such matters as the level of security that should be required.

B.13 In 2000 the government issued a Green Paper,¹ which suggested replacing the then existing credit approval system for controlling capital expenditure with a prudential regime to determine affordability. This Green Paper was followed by a White Paper in 2001, which proposed a new prudential capital finance system. The framework for this proposal was introduced in the Local Government Act 2003. The framework provided by the Local Government Act 2003 was supplemented and developed through the Prudential Code, which was published by Chartered Institute of Public Finance and Accountancy (CIPFA).

¹ Modernising Local Government Finance: A Green Paper.

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