Department for Levelling Up, Housing & Communities

Simon Hoare MP
Minister for Local Government
2 Marsham Street
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Councillor Ann-Marie Barker
Leader of Woking Borough Council

By email

27 February 2024

Dear Councillor Barker

EXCEPTIONAL FINANCIAL SUPPORT FOR WOKING BOROUGH COUNCIL

I write in relation to Woking Borough Council's request of 12 January for exceptional financial support in respect of 2023/24 and 2024/25.

While I welcome the steps that have been taken thus far by the Council overseen by the Commissioners, it is important to recognise that there is still significant work to be done given the extent of the financial issues. As a result of the Council's deeply concerning financial challenges, you have made an unprecedented request for exceptional financial support in the form of in-principle capitalisation and the application of a specific clause of the Department's draft Minimum Revenue Provision (MRP) guidance in order to set a balanced budget.

It is within this context that the Secretary of State has considered very carefully the Council's position including the interest of local people in Woking, and the need to provide sufficient stability to the Council and to make sure that service delivery, especially for the most vulnerable citizens, is not disrupted.

This letter sets out the Department's current position but <u>does not</u> constitute a capitalisation direction.

The consideration of your request has been based on the estimates that the Council has provided to date of its budget position. Commissioners have provided assurance, as far as possible, that these estimates are reasonable and appropriate based on the work done to date to uncover historic inaccuracies. I recognise, however, that these estimates are based in significant part on assumptions, and that the final amount of the required capitalisation direction will only be confirmed when the Council's financial accounts for previous years are closed.

With respect to financial years 2023/24 and 2024/25, the Secretary of State is minded to approve capitalisation directions totalling £330.7 million. The total is broken down by each financial year as follows, as per your request:

- 2023/24 - £235.1 million
- 2024/25 - £95.6 million

I understand that adjustments relating to accounting periods prior to 2023/24 have not yet been calculated, and therefore the total adjustment for all prior years is reflected in the 2023/24 figure above.

Before capitalisation directions in respect of any of the above years are approved, your Council will need to demonstrate that it continues to take all necessary steps towards improvement. The Secretary of State will require assurance from the Commissioners that you are making good progress against the Improvement and Recovery Plan, as per the Best Value Directions issued to your Council on 25 May 2023, and any subsequent directions issued in the future relating to the intervention. If the Secretary of State decides to approve any capitalisation directions, he would confirm in due course any conditions that would be applied. Any decisions would be contingent on the Council reporting to the Department the final amounts identified for which you need capitalisation for each year, with the agreement of the Council's external auditors and endorsed by the Commissioners. Each of these steps is addressed in more detail in the attached annex.

Your request included reference to the draft MRP statutory guidance that Government is currently consulting on. Specifically, it refers to the element of the guidance that states that '*where the government has made arrangements to intervene in a local authority and has, or is in the process of, putting in place financial support arrangements for that authority, it may be appropriate to reflect the nature of any such financial support in the determination of a prudent amount* of MRP'. The detailed paper provided to officials references an unprecedented corrective MRP charge of £356.4 million in the years up to and including 23/24, and a £105.4 million charge in 24/25.

The Commissioners' second report, published on 13 December 2023, sets out that 'a significant proportion of the Council's debt is not backed by assets and there is no ability to repay it', and that 'even in the most aggressive scenario, [asset] disposals in the next two years will be lower than required to significantly reduce the high debt levels held'.

This is a highly concerning position. Before the Government can provide the Council with any long-term support relating to the Council's debt position, it is imperative that the Council takes all possible steps to minimise its debt. I understand that work regarding asset disposal is underway, and I urge the Council to cooperate with the Commissioners to drive this work forward. I expect this work to be robust, underpinned by a detailed assessment of options considering the associated risks and benefits, and a review of the Council's companies' financial positions including detailed cashflows, and scrutinised by the Commissioners and appropriate external advisors. The Council should also work with Commissioners to consider the operating model of the Council including redesign of services to maximise efficiency, and what steps could be taken in future years to address the Council's resource base.

When Commissioners are assured that all possible local steps have been taken to minimise the Council's debt, the Government will consider the appropriate action to ensure the Council can address its residual debt. It is unclear at this stage what the appropriate amount, form and structure of any such action may be. Government reserves its position to make final decisions based on all available evidence and consider what conditions would apply taking account of the impact on the public purse.

As set out in the draft MRP guidance, relevant local authorities *'<u>must seek agreement from the Government</u> on how any assumptions with respect to support are reflected in the determination of MRP'*. The Government agrees the Council's assumption that, based on its current position, there is no reasonable means by which the Council can meet all its debt liabilities from its own resources. Further, it is the Government's view that the Council should follow the draft MRP guidance with respect to this matter, on the basis that the relevant element of the guidance is intended to articulate existing policy rather than introduce a prospective change on publication.

The department will continue to work with the Council and Commissioners regarding the Council's long-term financial position, noting the need to set a balanced budget for 2025/26 by the statutory timescales.

You will also be aware that on 24 January, the Secretary of State announced the expectation for all councils to produce a productivity plan focused on improving service performance and reducing wasteful expenditure. I wish to emphasise that this productivity plan should be completed alongside your ongoing improvement and recovery work.

Finally, Commissioners have identified that incorrect charges were made to the Council's Housing Revenue Account from financial years 2019/20 to 2023/24, to the sum of c. £1.76 million. Once Commissioners are assured of the final figures, the Secretary of State is minded to approve an item

9 credit direction of up to £1.76 million in exercise of the powers conferred by section 87 and item 9 of Part I of Schedule 4 to the Local Government and Housing Act 1989. This letter does not constitute an item 9 credit direction.

I would be grateful if the Council could confirm in writing by 28 February that it wishes to proceed in accordance with the position set out in this letter. I am copying this letter to the Commissioners, your Chief Executive and Section 151 Officer. This letter will also be published on GOV.UK.

SIMON HOARE MP
Minister for Local Government

Annex – Assurance required for approving exceptional financial support

Assurance

Government's agreement to provide the exceptional financial support outlined in this letter and any future support is subject to the Council providing assurance of its position, and ongoing action in addressing its financial failure. If the Secretary of State decides to give any directions, he would confirm in due course the final amount of capitalisation support and any conditions that would be applied. At all stages the Department's consideration will also include evidence from the Commissioners of the actions the Council is required to take, as per the Secretary of State's directions (dated 25 May 2023) made under section 15(5) and (6) of the Local Government Act 1999. This will include evidence of the Council's delivery of:

- an Improvement and Recovery Plan to the satisfaction of the Commissioners, including a robust multi-year action plan to deliver financial savings that will enable the Council to deliver council services within the resources available to the Council. This will include progress in delivering further savings in 2024-25 in addition to those put forward in the budget;
- a robust asset disposal plan to the satisfaction of Commissioners and Government. This must be underpinned by a detailed assessment of options considering the associated risks and benefits, and a review of the Council's companies' financial positions including detailed cashflows, within three months unless otherwise agreed by Commissioners. The plan must balance appropriately the urgent imperative to reduce the levels of outstanding debt with the need to secure a managed exit from commercial arrangements and deliver optimal value for the public purse. The plan, and the Council's progress against that plan, will be subject to scrutiny by appropriate external advisers;
- a strict debt reduction plan to the satisfaction of Commissioners and Government, linked to the options appraisal and agreed asset disposal plan;
- robust commercial governance and assurance frameworks to the satisfaction of Commissioners and Government to ensure effective decision-making and risk mitigation, and to facilitate an orderly and timely exit from the Council's commercial arrangements with its companies;
- an updated minimum revenue provision (MRP) policy that sets out the Council's approach to determining MRP and makes clear any assumptions with respect to Government support and how this affects the annual charge. The assumptions applied in the policy must be agreed with Government;
- an action plan to ensure the Authority is complying with all relevant rules and guidelines relating to the financial management of the Authority; and a suitable scheme of delegations for financial decision-making;
- plans to ensure the Council's capital, investment and treasury management strategies are compliant with all relevant rules and guidelines. The plans should include specific targets for the delivery of capital receipts, when the Commissioners have agreed those targets.

The Council must also adhere to strengthened restrictions on borrowing:

- the Council can only borrow from the Public Works Loan Board (PWLB) unless otherwise agreed by Government;
- the Council's borrowing from the PWLB will remain under the increased operational requirements until specified by Government. That is, the Council must provide a schedule of borrowing at least monthly detailing the amount, timing and reason for borrowing. Commissioners will provide Government with assurance that all borrowing is necessary, kept to minimum required and not borrowed in advance of need;
- the Council will agree all new capital spend with Government and share any information required for Government to be assured it meets the terms of borrowing. This includes agreeing the capital plan with Government ahead of each financial year and any revised plans.

Conditions

Capitalisation directions may be subject to conditions, which would be set out in any capitalisation directions should the Secretary of State decide to exercise his powers under sections 16(2)(b) and 20 of the Local Government Act 2003.

If the Secretary of State decides to give any directions, he is minded to attach the following conditions:

- the Authority may only capitalise expenditure when it is incurred;
- where expenditure is capitalised, that the Authority shall charge annual Minimum Revenue Provision using the asset life method with a proxy ‘asset life’ of no more than 20 years, in accordance with relevant guidance;
- where the Authority’s capital financing requirement is increased as a result of the capitalisation of expenditure under this direction, any further borrowing from the date of the capitalisation letter up to and including, but not exceeding, the increase in the financing requirement must be obtained from the Public Works Loan Board and must be subject to an additional 1 percentage point premium on the interest rate above the rate the loan would otherwise be subject to. This requirement does not apply to borrowing in relation to your Housing Revenue Account. Where any borrowing to which these conditions initially apply is refinanced, the conditions must continue to apply to the resulting borrowing;
- the Authority makes good progress against its Improvement and Recovery Plan, as assessed by the Best Value Commissioners, in their regular reports to the Secretary of State.

With this in mind, the Secretary of State may also attach additional bespoke conditions to any directions issued in respect of the financial years above, depending on the Council’s individual circumstances.

Confirming final amounts

Although the Secretary of State is minded to approve capitalisation directions for the period between 2023-24 to 2024-25, this would be contingent on the Council reporting to the Department the final amounts identified for which it requires capitalisation for each year, with the agreement of the Council’s external auditors and endorsed by the Best Value Commissioners.