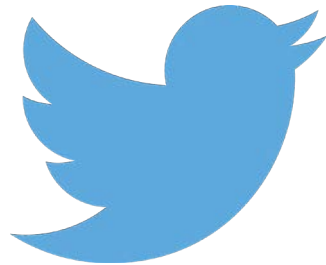




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# Welcome

## APSE Commercialisation Network

Wednesday 26 January 2022

*Chair: Cllr Tracey Dixon, Leader of South Tyneside Council and APSE Advisory Group Chair, Commercialisation Network*



# Agenda

- *Welcome from the Strategic Forum Chair: Cllr Tracey Dixon, Leader of South Tyneside*
- **Facilitated discussion with Bevis Ingram, Senior Adviser Finance, LGA, sharing emerging thoughts on the new code and Mo Baines, APSE, Head of Communication and Coordination**
- **Changes to the Prudential Code**
- *Open discussion*
- **Generating income from council refuse collection vehicles and other fleet**
  - **Speaker: Lawrence Craig, Chief Executive, Roadvert**
- *Audience Q&A session*
- **Public Confidence in Council Services**
- *Discussion session led by Cllr Tracey Dixon: Next steps for the Commercialisation Network 2022 programme*

# The Prudential code for Capital Finance for Local Authorities

## *A discussion panel*

- Bevis Ingram, Senior Adviser Finance, LGA
- Mo Baines, APSE, Head of Communication and Coordination

# Why change the code?



- Fears / suspicions / reality that some councils had over stretched commercial risk
- Borrowing purely for yield
- Could debts be repaid if markets changed and investments did not return the anticipated yield
- Not just property but investments overall

# Governance of capital finance

- Local Government Act 2003 and Local Government Scotland Act 2003 – ‘prudent management of its financial affairs’
- CIPFA’s Prudential Code for Capital Finance and Accounting
- Statutory Guidance on Local Government Investments (3<sup>rd</sup> Edition) Issued under section 15(1)(a) of the Local Government Act 2003 and effective for financial years commencing on or after 1 April 2018
- Financial standing orders, risk register, scrutiny and council decision making

# Investigations, statistics and monitoring

- DLUHC – statistical releases on borrowing
- Credit agency ratings
- National Audit Office
- Public Accounts Committee
- PWLB – monitoring and leverage
- HM Treasury

# Context

- Financial circumstances of councils – on the one hand reliant on income generation and encouraged to be entrepreneurial
- But.. Perception of public money and therefore risking taxpayer funds
- What is the right balance?

# Problems or perceptions?

- Most councils manage risk well
- Most agree the risk appetite with councillor leadership teams
- Public perceptions shift – what is the core role of councils?
- If we accept not the job of councils to invest for yield what replaces the income?

# Changes to the Code?

- Prudence and prudential indicators for prudence

## Old

45 Authorities must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed. Authorities should also consider carefully whether they can demonstrate value for money in borrowing in advance of need and can ensure the security of such funds. Therefore, local authorities must not borrow to fund solely yield-generating investments.

## New

45 Authorities under legislation can borrow and invest for the following purposes:

- Any function of the authority under any enactment.
- **For prudential financial management.**

46 The Prudential Code considers legitimate examples of prudent borrowing to include:

- a) financing capital expenditure primarily related to the delivery of a local authority's functions
- b) temporary management of cash flow within the context of a balanced budget
- c) securing affordability by removing exposure to future interest rate rises
- d) refinancing current borrowing, including replacing internal borrowing, to manage risk or reflect changing cash flow circumstances.

**47** The Prudential Code determines certain acts or practices that are not prudent activity for a local authority and incurs risk to the affordability of local authority investment:

- An authority must not borrow to invest for the primary purpose of commercial return.
- It is not prudent for local authorities to make any investment or spending decision that will increase the CFR, [capital finance requirements] and so may lead to new borrowing, unless directly and primarily related to the functions of the authority and where any commercial returns are related to the financial viability of the project in question.
- These principles apply to prudential borrowing for capital financing, such as externalising internal borrowing for the primary purpose of commercial return.

**48** The UK government's rules for access to PWLB lending require statutory chief finance officers to certify that their local authority's capital spending plans do not include the acquisition of assets primarily for yield. This reflects a view that local authorities' borrowing powers are granted to finance direct investment in local service delivery (including housing, regeneration and local infrastructure) and for cash flow management rather than to add gearing to return-seeking investment activity. Since

a) access to the PWLB is important to ensure local authorities' liquidity in the long term, and

b) gearing investment always increases downside risks

local authorities should not borrow to finance acquisitions where obtaining commercial returns is a primary aim.

# Who sets policy?

- Role and function of Government?
- Role of codes of practice and professional competencies
- Do we now have the right balance within the revised code?

## Prudential framework

- Prudential framework for capital finance introduced by Local Government Act, 2003 and 2003 Capital Finance Regulations. Four parts
    - Prudential Code for Capital Finance in Local Authorities (CIPFA)
    - Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes (CIPFA)
    - Statutory guidance on local government investments (DLUHC)
    - Statutory guidance on minimum revenue provision (DLUHC)
-

## Origin of the Prudential code

- 2003 Act
  - each local authority was given a duty to “determine and keep under review how much money it can afford to borrow.”
  - Capital finance regulations 2003
  - in order to discharge that duty local authorities “shall have regard to the code of practice entitled the “Prudential Code for Capital Finance in Local Authorities” published by CIPFA, as amended or reissued from time to time”.
-

## Prudential framework

- a major step in freeing local government from centrally imposed borrowing controls and the Government placing genuine trust and reliance in local government's ability to manage its own affairs according to the sector's own professional standards
  
  - All four parts were last revised in 2017 and came into effect from 1 April 2018.
-

## LGA concerns - consultation responses

- The purpose of the Prudential Code is to enable local authorities to assess the affordability of borrowing not to decide what that borrowing is for
  - Lack of clarity – concern how proposed changes could be interpreted, particularly affecting
    - Economic development and regeneration
    - Existing investments
    - Treasury management and access to non cash investments including pooled funds
    - Fire sale (“Authorities with existing commercial investments (including property) are not required by this Code to ***immediately*** sell these investments”)
-

## LGA concerns - consultation responses (2)

- Objective of code : “proportionality of commercial investments”
    - Supported general proportionality but singling out commercial investments inappropriate
  - Accepted that ““An authority must not borrow to invest primarily for financial return” is clearer than previous wording on borrowing in advance of need. (concern was the possible confusion and unintended consequences that could result from the other guidance about investment practice in the code)
-

## CIPFA's response

- Various statements made – eg this from Rob Whiteman in Public Finance 15 Nov:

### **Do the codes require a 'fire sale' of assets?**

No. Quite simply, the codes advise local authorities that if they currently have a long-term position – this could be property or long-term financial investments – they should consider the benefits of exiting these positions and the resource implications of that, rather than incurring further borrowing.

- Plus further discussions in private and at Treasury Management Panel
-

## Changes made

- Code objectives
    - “the risks associated with investments for **service and** commercial purposes are proportionate to their financial capacity”.
  - Fire Sale
    - “Authorities with existing commercial investments (including property) are not required by this Code to sell these investments”.
-

## Changes made - 2

- Existing investments
    - “Authorities with commercial land and property may also invest in ***maximising its value***, including repair, renewal and updating of the properties”
  - Regeneration
    - Clarification on definitions of investment categories helps
    - The consultation version of the code included a direct reference to managing regeneration and service investments with commercial investments. This has been removed from the final version
-

## Changes made - 3

- Definitions
    - “Treasury investments may also arise from other treasury management activity that seeks to prudently manage the risks, costs or income relating to existing or forecast debt or treasury investments.”  
“(NEW)”
  - This means that if investments are undertaken as treasury management activity, then they (by definition) count as treasury management activity. Without this, it was possible to interpret the rest of the definitions as saying certain treasury management activity, particularly investment in pooled property funds, should be classified as commercial investment
-

# Discussion



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