Society of District Council Treasurers Response to the Government Consultation on Minimum Revenue Provision (MRP)
February 2022

The Society of District Council Treasurers was formed in 1974 and represents the 181 district council finance functions in England.

The Society provides a forum for members to share expertise on financial issues affecting district authorities. It also enables districts to speak with a united voice; as a Treasurers' Society it is recognised as a key local government stakeholder by central government and the Local Government Association.

The society welcomes the opportunity to feed into this important consultation.

Summary

The society disagrees with the government's proposal around the MRP calculation. We are very concerned around the impact that the amended regulations, as drafted, would have on the provision of much needed additional housing in local authority areas through wholly owned local authority companies. Councils have been proactive in responding to the housing supply pressures in their districts and boroughs and through several innovative arrangements including the establishment of local authority housing companies. The key driver of local authority housing companies is to increase housing supply in accordance with local needs and where the market may be under providing.

Councils have worked through a detailed due diligence process in establishing these companies, with tight legal agreements around loan agreements and repayment schedules with their companies. The application of MRP to the lending arrangements would not be helpful in this instance with prudence. It would pose a significant risk to the viability of a Council's financial support to the housing company.

Furthermore, Councils have due regard to other accounting principles - we already must account under IFRS 9 for impairment of long-term debtors. If part of the driver for introducing MRP on capital loans is to ensure authorities are being prudent it is difficult to understand how this interacts with the responsibility to be prudent which applies irrespective of how the loan has been financed. A potential unintended consequence of the proposed MRP changes is that the impairment of the lending to the housing company is provided for twice – once through application of accounting standards (IFRS9) and again through MRP.

Responses to Consultation Questions

Q1. Do you agree with the government's proposal to amend the 2003 Regulations to prevent the omission of debt from the MRP calculation?
We disagree with the approach as outlined in the proposed amendment to the 2003 Regulations. Whilst we understand that the government is concerned around investment property held by local authorities, the proposal as drafted would include all expenditure and would have a much greater impact on local authorities.

As an example, where a local authority has made a capital loan to a third party for service purposes and is supported by contractual obligations by the third party the local authority would receive regular capital receipt payments. It would be prudent for the local authority to apply these capital receipts directly against the CFR rather than the MRP and would allow the CFR to be written down in line with the flow of benefit from the capital expenditure.

The same would apply to other forms of capital financing – government grants or developer's contributions for example where funding of this type forms part of an overall financing package.

This is quite different to plans a local authority may have to dispose of a property to generate a future capital receipt – the timing and value of the capital receipts would not be known with the same level of certainty.

We have concern around the impact such changes would have on lending made to wholly owned local authority companies, especially those that are involved in the provision of housing. Where these are supported financially through a capital loan, the proposed changes would have an unintended consequence of reducing the financial viability of the arrangements and may prevent local authorities from delivering much needed additional housing supply in their local authority area.

Q2. Does the draft statutory instrument achieve the government's objectives as outlined in this document? Are there any unintended consequences arising from the statutory instrument?
The statutory instrument, as drafted, is unclear. The important aspect of the calculation is the inclusion of all capital expenditure rather than the financing.

Q3. Is it clear from the wording of the statutory instrument, as drafted, that authorities may still postpone the MRP charge as per paragraphs 40 and 41 of the MRP guidance?
Whilst paragraphs 40 and 41 of the MRP guidance do provide some flexibility to local authorities to postpone the MRP charge for assets under construction, the point made in the wording of the statutory instrument is around proper practices. MRP guidance falls outside the definition of proper practices in Regulation 31.

Q4. Are these changes consistent with the current MRP guidance? If not, what is unclear or inconsistent in the guidance?

No, the changes proposed remove flexibility (as per Q1 response) so and not consistent.

Q5. Do you agree with the government's proposal to amend the 2003 Regulations to prevent the use of capital receipts to be used in place of a revenue charge?
No. Our response is similar to that in Q1. Local authorities should have the flexibility to apply capital receipts against the CFR associated with that scheme which would reduce the MRP.

This would have the same impact as the Government's aim to prevent local authorities from minimising the MRP charge to the revenue account.

Q6. Does the draft statutory instrument achieve the government's objectives as outlined in this document? Are there any unintended consequences arising from making this change?
There is the potential for capital expenditure to be financed twice based on the requirement to ignore capital receipts used in accordance with regulation 23. In applying capital receipts against capital expenditure in accordance with the regulations, there is the potential for this to be excluded leading to the capital expenditure being financed again through MRP.

Q7. Is it clear from the wording of the statutory instrument, as drafted, that authorities may set capital receipts against borrowing?
Regulation 23 provides adequate and clear wording.

Q8. Are these changes consistent with the current MRP guidance? If not, what is unclear or inconsistent in the guidance?

Q9. Where these changes will have a financial impact on your authority, what is the estimated increase/(decrease) in annual revenue cost (for illustrative purposes, assume the changes take effect from 2022/23)?
Specific responses will be provided within individual authority responses

Q10. Where these changes affect the amount of MRP charged by your authority what, if any, effect will there on financial sustainability?
Specific responses will be provided within individual authority responses

Q11. Aside from financial sustainability, what other impacts will the changes have? For example, changes to capital plans, debt management or current investments. Include a costed impact if appropriate.
Specific responses will be provided within individual authority responses

Q12. Do you agree that the government should implement the amendments to the legislation to come into effect from the 2023/24 financial year?
Whist the Society disagrees with some of the proposed changes, implementation in 2023/24 is a much more realistic prospect and preferable to implementation in 2022/23.

Q.13. If not, are there any specific proposals for deferring implementation to a later financial year? What would be the implications of not doing so?
For authorities where there will be a large revenue impact, a phased transition over a much longer period (minimum of 5 years) would be welcomed. This would allow authorities to plan and adjust over time and avoid the risk of unintended consequences around financial sustainability. There is a danger otherwise of authorities requesting capitalisation directions to cover MRP costs, which would run contrary to the proposals as outlined.