

Responses to CIPFA Draft Guidance on Prudential Property Investment

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<i>SDCT General Commentary</i>		
1 (SDCT)	Commentary by a Treasurers Society that the document is too long and overly prescriptive.	<ul style="list-style-type: none"> • The Treasurer’s Society recognises that the issues raised are complex - this in part contributes to the length of the document. • The most complex analysis of the CIPFA position is for this reason included in an Appendix for the occasions when the technicalities might need to be considered. • We would contend that as guidance only, the publication is not overly prescriptive.
2 (SDCT)	A clearer definition of ‘borrowing in advance of need’ is necessary.	<ul style="list-style-type: none"> • This is provided in the Prudential Code and is considered in detail by the publication. However, to assist further description is provided in a new paragraph 6 and in the summary.
3 (SDCT)	Commentary on the scale that the problem is trying to resolve.	<ul style="list-style-type: none"> • We would note that the NAO Chair commented at Public Finance Live (CIPFA Conference) that commercial investments in the acquisition of land and existing buildings had increased nearly four-fold between 2010-11 and 2017-18, to more than £3.5bn. He also noted that around 80% of the activity has come from 20% of local authorities. • The point was made at the ALATS meeting that the scale of the practice particularly of a few outliers in this area puts into jeopardy the whole of the Prudential Framework. • The guidance is also being issued to assist local authorities in this complex area and as a preventative measure.
4 (SDCT)	Commentary on the need to consider new innovative approaches to income streams. The draft guidance considers property investment in isolation without ‘accepting the real	<ul style="list-style-type: none"> • As is reflected in the commentary by SDCT, CIPFA recognises and is concerned about the budgetary issues faced by local authorities but considers that this is outside the scope of this publication.

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	position that local authorities are currently in'.	
5 (SDCT)	Should the Prudential Code continue to say that "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"? If it has to be explained what that really means, then it is no longer fit for purpose.	<ul style="list-style-type: none"> • This statement is an important principle which supports decisions made by authorities adopting the Prudential and Treasury Management Codes and the Prudential Framework. • CIPFA is of the view that local authorities understand the principle as it applies to treasury management. It is a key position for these investments and therefore will need to remain. We are of the view that this principle applies equally to other forms of investment. Some practices have been identified as not obviously according with this requirement.
6 (SDCT)	State clearly if CIPFA's view is that authorities should not borrow to fund investment properties where that involves capital expenditure. The draft guidance does not make this clear and is contradictory in parts.	<ul style="list-style-type: none"> • CIPFA has set out its position in the guidance where the authority has no specific or projected need to borrow, local authorities must not borrow purely in order to make an investment return greater than the local authority's cost of borrowing. This has been augmented in the publication and includes a new paragraph 6 and a new commentary in the summary. • There are complexities with regard to property acquisitions which needed to be reflected in the guidance. CIPFA could remove the guidance which appears to be contradictory (but reflects areas where decisions made about an acquisition are more marginal) but is of the view that this would make the position more restrictive for local authorities.
7 (SDCT)	Then also clearly state the exceptions with greater clarity as this is currently likely to result in conflicting legal opinions.	<ul style="list-style-type: none"> • See response at item 6 but as with all transactions, events and circumstances until there is a judgement made by the courts then CIPFA recognises that it is always possible for conflicting opinions. However, it is not aware of any specific alternative opinions.
8 (SDCT)	If legal opinion does conflict with this guidance, s151 officers may be put in a difficult position with	<ul style="list-style-type: none"> • This was discussed at the ALATS meeting, where examples akin to the

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	<p>colleagues and members regarding whether a scheme can take place or not. As an example, S120 of the Local Government Finance Act 1972 [LGFA 1972] contains the following provision: 120 Acquisition of land by agreement by principal councils. (1) For the purposes of— (a) any of their functions under this or any other enactment, or (b) the benefit, improvement or development of their area, a principal council may acquire by agreement any land, whether situated inside or outside their area The very last part of this provision appears to contradict with the tone of the guidance and the implications for borrowing for commercial property outside of the local authority area.</p>	<p>last part of section 120 of the LGFA 1972 were considered.</p> <ul style="list-style-type: none"> The guidance also accepts that this might be the case – see the Annex paragraph A20. Paragraph 60 of the main text also refers to the proper considerations an authority should make with regard to its corporate strategy where local authorities purchase commercial investments outside the authority area.
9 (SDCT)	<p>The key points in the guidance need to be highlighted and easy to find to help make it a user-friendly document.</p>	<ul style="list-style-type: none"> The guidance is structured with a staged process to arrive at the points which are raised. However, CIPFA has added some more highlights to the guidance to assist practitioners.
10 (SDCT)	<p>The specific considerations that should be addressed before an authority undertakes a commercial venture (generally a property purchase) need to be clearer, unambiguous and concise. The guidance has a tone that is more rhetorical than would be ideal, often commenting negatively on a particular course of action but then seeming to state “but there again”. Such an approach does leave s151 Officers in a difficult position because of all of the different shades of colour that pertain to various courses of action in respect of property purchase are present.</p>	<ul style="list-style-type: none"> This is a reflection of the legal position that local authorities are in. Local authorities have to demonstrate that they have the power to acquire a property as opposed to instead being strictly prohibited from the acquisition.
11 (SDCT)	<p>The guidance needs to be much clearer as to which legal powers it is not comfortable with when they are used for property purchases. Annex A lists many of the legal powers but causes quite a lot of confusion when clarifying whether a property purchase is a treasury management</p>	<ul style="list-style-type: none"> One of the main objectives of the guidance is to explain that local authorities must themselves be clear on the powers and the rationale behind a commercial property acquisition. It is not possible to give an opinion on specific powers which would need to consider the facts and

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	<p>investment or whether it is a non-treasury management investment. The section on internal borrowing seems to be somewhat misleading. Temporary surpluses of working capital/cashflow are not the determining factor when identifying specifically what type of investment a property purchase may be. Local authorities have an important role to play here, in that they too must be clear and unambiguous in the phrasing they use for reporting, when the primary purpose of a non-treasury management investment property purchase is driven by economic regeneration reasons but may also deliver a commercial return. The guidance must therefore also be clear that such schemes are still acceptable if the appropriate rigour has been applied in the capital appraisal of such schemes.</p>	<p>circumstances relevant to the individual authority.</p> <ul style="list-style-type: none"> The guidance on internal borrowing is a complicating factor which reflects the need for local authorities to maintain the value of their cash balances. The guidance does not indicate that this is a determining factor. Additional text has been included to confirm for the avoidance of doubt that this is the case. CIPFA agrees that local authorities must be clear on the purpose for which an authority would acquire a commercial property. However, it cannot comment on individual schemes as this might skew approaches to acquisitions.
12 (SDCT)	<p>The guidance must provide further clarity in its use of the term "borrowing in advance of need". The wording in the Prudential Code is clear and is related to borrowing in excess of the Capital Financing Requirement (or Underlying Borrowing Requirement if netting off PFI scheme debt and finance leases). Trying to then give this specific phrasing a second meaning by referring to borrowing that should not be used for the purchase of commercial assets is not helpful. In fact, that logic is flawed as authorities only identify a holistic approach to funding their capital programmes in their Treasury Management Strategy Statement and Treasury Outturn Reports, and borrowing for a particular scheme is only true in the sense that borrowing is allocated to a particular asset for MRP purposes. In any event, all financial appraisals of capital projects/schemes should be using a robust, consistent approach that entails a cost of capital assumption. A scheme should not progress, or be put on the backburner, just because alternative funding is available other</p>	<ul style="list-style-type: none"> See response at items 6 – 8 in terms of the use of the term 'borrowing in advance of need' but CIPFA would comment that this is not the full statement in the Prudential Code. Text in grey shade - CIPFA disagrees that reference to the term 'borrowing in advance of need' alters the meaning of the phrase. We are not of the view that there is flawed logic. Whilst CIPFA agrees that generally local authorities should take a holistic approach to capital finance acquisitions, this cannot be the case for property acquisitions where a substantial commercial return is anticipated which would need to be considered separately to ensure that the authority is not borrowing more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed. One of the complex tasks undertaken by the guidance is that it separates out 'borrowing in <i>advance</i> of need' from 'borrowing in the <i>absence</i> of need'. Borrowing in advance of need

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	<p>than borrowing e.g. capital receipts. We agree that the source of the funding for the advancement of a particular capital scheme should not be a key driver unless it is tied to significant funding provision by e.g. government capital grant/development contribution.</p>	<p>is wholly concerned with ensuring that authorities have the cash in place to finance capital schemes which have yet to take place.</p> <ul style="list-style-type: none"> • The guidance focusses on borrowing not for a specific types of project or schemes but where the substantial objective of the acquisition is such that the investment return is in excess of a local authority's cost of borrowing.
<p>13 (SDCT)</p>	<p>The reference to the Wednesbury Principles of reasonableness is not new. With regard to emphasising Security, Liquidity, Yield in taking investment decisions, s151 Officers have been doing that since the advent of the Treasury Management and Prudential Codes. However, CIPFA's focus on the acquisition of commercial property and proportionality emphasises their concern in relation to non-treasury management related investments. Nonetheless, those investments will generally rely on separate powers to those pertaining to the day to day treasury management investment of surplus cash and, so, CIPFA needs to be clear if it is specifically referring to capital expenditure activity based on separate powers, such as LGA 2003 or the Localism Act, and that the capacity, skills and culture element of a broader capital investment decision making process has to be properly recorded, embedded and actioned. To that end, CIPFA's recent work on the Capital Strategy, Financial Resilience Index and Financial Management Code should all inter-link to help aid this process in a joined-up manner, and although we would concur that the draft CIPFA guidance should be shorter and more concise it would be sensible not to overlook developments in respect of governance, scrutiny and resilience that are running in parallel.</p>	<ul style="list-style-type: none"> • CIPFA agrees that consideration of the Wednesbury principles is not new with regard to treasury and capital management practices but would contend it is a particularly important factor in property acquisitions with a commercial return. It therefore needs to be emphasised in this guidance. CIPFA will review to ensure it is clear when it is referring to all property acquisitions or those for investment purposes. • CIPFA will ensure it aligns with other Codes.
<p>14 (SDCT)</p>	<p>A clearer definition of 'borrowing to invest' is required.</p>	<ul style="list-style-type: none"> • See items 6 – 8 and 12.

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15 (SDCT)	Push for changes to legislation that relate to current practices rather than trying to fit them in to current legislation (which was not written with property investment in mind).	<ul style="list-style-type: none"> • CIPFA regularly provides commentary on local authority resources and raises concerns about its impact. • Taking into account recent commentaries from government on this issue it is not clear that any changes would be less restrictive than those currently afforded by the Prudential Framework. • Where CIPFA would acknowledge that there is scope for debate (although outwith the scope of this guidance) is for objective consideration of the modern role of local government and the powers and financial levers which are currently available.
Detailed Comments on Drafting Foreword		
16 (SDCT)	General: further clarity is required on exactly what type of investment[s] are included in this guidance as some sections could easily be taken out of context. The Foreword refers to 'all' local authority investments.	<ul style="list-style-type: none"> • This is covered in the scope. However, previous commentators wanted the guidance to be clear that the principles apply to all investments (which they do).
17 (SDCT)	Para 2 (part in bold): There needs to be a clear definition as to what this means as it is key to the rest of the document.	<ul style="list-style-type: none"> • See items 6 – 8 and 12.
18 (SDCT)	Para 3: "this applies to all forms of investments." This results in added complications. The guidance needs to be as simple as possible to focus on the important points rather than touch on associated issues. This results in the guidance being long and the key points difficult to find.	<ul style="list-style-type: none"> • See item 16 above, previous commentators have indicated that they would be concerned if the guidance included was considered in complete isolation of other investments.
19 (SDCT)	Para 5: this approach should be taken for all property purchases, not just those for investment purposes.	<ul style="list-style-type: none"> • Agreed. This is related to point 18 but for the avoidance of doubt CIPFA has amended paragraph 5 in the main text to reflect this.
20 (SDCT)	Para 7: This is what s151 officers do so does not need to be reiterated. Borrowing to invest requires a clearer definition as you can borrow	<ul style="list-style-type: none"> • Agreed in relation to the comment that this is what S151 officers do.

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	to invest for economic development schemes as well as pure investment only schemes.	<ul style="list-style-type: none"> This is typical commentary in a Foreword which underlines the key messages. But to assist CIPFA has removed this sentence.
<i>Detailed commentary: Summary</i>		
21 (SDCT)	Para 2: This needs more explanation as authorities have always been able to borrow to buy property.	<ul style="list-style-type: none"> Agreed that local authorities have always been able to acquire property but this paragraph does not call this into question.
22 (SDCT)	Para 4: "extends to all acquisitions of land and/or buildings." Again, the guidance is more complicated than it needs to be, it should just focus on borrowing for investment. There needs to be some differentiation here between the types of commercial investment that are being undertaken.	<ul style="list-style-type: none"> The guidance is complex because this is a complex issue. The scope is clear that it focuses on property acquisitions where there is a substantial commercial return. The guidance uses a staged process to allow local authorities to determine which types of investment in commercial properties may appropriately fit into the capital strategy of a local authority and those that are unlikely to.
23 (SDCT)	Para 7: "Here consideration must be given as to whether investments can only be made with surplus cash already available to an authority or whether it can generate the necessary surplus cash by borrowing". The purpose of this sentence is unclear.	<ul style="list-style-type: none"> The sentence is intended to set out the general principle that investing implies having (surplus) cash to undertake the investment. Borrowing to create this surplus cash whether this is invested in a financial instrument/asset or a tangible fixed asset is likely to be on-lending.
24 (SDCT)	Para 8: CIPFA's view is a challenging statement as s151 officers cannot take property investment in isolation. It is part of a wider strategy to ensure the ongoing financial sustainability of each authority.	<ul style="list-style-type: none"> This maintains CIPFA's position on the issue. CIPFA concurs that all investments should be a part of the wider investment strategy but this cannot overcome principle set out in the Prudential Code that where the authority has no specific or projected need to borrow, local authorities must not borrow purely in order to make an investment return greater than the local authority's cost of borrowing.
25 (SDCT)	Para 8: The Prudential Code requires an acquisition to be proportional – the level of due diligence carried out to reduce the ongoing risks can change the proportion that is acceptable. Our view is that most commercial property investments still fit within the Prudential Code	<ul style="list-style-type: none"> CIPFA is of the view that this is one of the objectives of the guidance. Provided local authorities have the powers to acquire such properties and that the use of such powers is reasonable CIPFA would agree. The rationale for the guidance is that evidence is such that some

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	guidance and so the need for this additional guidance is unclear.	acquisitions in property with the prospect of a substantial commercial return may not meet that criteria.
<i>Detailed Commentary: Part 1 - Introduction</i>		
26 (SDCT)	Para 6: Clarification is required as to what is a "substantial consideration" to apply the guidance.	<ul style="list-style-type: none"> • CIPFA is of the view that local authorities will be able to make their own assessment of 'substantial consideration' in accordance with their professional duties and responsibilities. • If CIPFA stipulated this (if, for example, CIPFA indicated that 'substantial consideration' would be more than 50 per cent of justification for the transaction was to secure rental income or of the capital appreciation of the property), this could lead to acquisitions being skewed to that definition which would be artificial.
<i>Detailed Commentary: Part 2 - Can We Acquire Commercial Property?</i>		
27 (SDCT)	The guidance emphasises the requirement to obtain a view on legal power and the use of borrowing to support acquisitions of commercial property. There is a diagram that makes it clear that if S.12 Investment Power is used then borrowing should not be taken to support the activity. This means it has to be supported by cash (reserves, balances, provisions etc.) but such an approach would run the risk of converting revenue to capital as any proceeds from the sale of the capital asset would be classified as capital receipts. We believe that there are few local authorities that are specifically looking to rely on s12 Investment powers for the purpose of buying capital assets, but there are some, and we would suggest that if Counsel opinions are providing inconsistent (or alternative) advice this could be an area that CIPFA seeks some uniformity.	<ul style="list-style-type: none"> • We think that this commentary might be mixing up cash flow and borrowing. The point of the guidance is that if an authority does not have the powers to borrow that the acquisition is unlikely to be able to be financed by borrowing. It does not mean that the use of other cash or resources to finance an acquisition would change the expenditure from revenue to capital. • We cannot comment on any areas where local authorities have sought Counsel's Opinion on an issue.

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28 (SDCT)	Para 11: This could jeopardise local development. It needs to be clear about what is included.	<ul style="list-style-type: none"> For the reasons outlined in point 26 CIPFA cannot stipulate types of acquisitions of commercial property which would be acceptable as this would skew approaches to investment in this area. Paragraph 60 considers local development issues.
29 (SDCT)	Para 14: The interpretation by the guidance would potentially impact the activities of some local authorities who seek to rely on a legal opinion.	<ul style="list-style-type: none"> As is indicated in the SDCT response local authorities do need to be clear under which power[s] they acquire commercial properties. The guidance allows for a position where authorities seek to rely on a legal opinion.
30 (SDCT)	Para 14: it would be useful to define "substantial speculative elements". Again, this is where risk and due diligence impact as they should remove the speculative elements.	<ul style="list-style-type: none"> Again as with the responses to items 26 and 28 if CIPFA specified or defined this then this would skew local authority decision making in this area.
31 (SDCT)	Para 15: This paragraph is concerning. It would be better to change the way CFR is calculated rather than via a guidance note.	<ul style="list-style-type: none"> This does not change the way in which the CFR (ie the authority's underlying need to borrow) is calculated. It identifies that there can be a difference between an authority's need to borrow and its actual borrowing and that this can be analysed by disaggregating (but not changing) the CFR into its constituent parts.
<i>Detailed Commentary: Part 3 - Should We Acquire Commercial/Investment Property?</i>		
32 (SDCT)	Para 19: "This does not mean that the provisions in the guidance are mandatory." This is a major point and should be included in the Foreword (preferably after the statement in bold in para 2). This suggests that if you have a reasoned argument you can still do it. This will result in legal advice being obtained to allow a scheme to take place and will leave the s151 officer in potential conflict with other officers.	<ul style="list-style-type: none"> An important element of the Prudential Framework is that local authorities take their own decisions based on affordability and the sustainability of their finances in both the short and long-term. It is well understood that this flexibility is carried forward into the statutory guidance and indeed the Prudential Code itself. Both of which require local authorities to 'have regard' for such guidance in accordance with their statutory duties to both borrow and invest. CIPFA is not clear why this specific part of the framework needs to be

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		<p>included in the Foreword but has included it (in the Foreword) to assist practitioners. As indicated in earlier responses local authorities will need to be clear on the powers they use to undertake the acquisitions provided there is adherence to the Prudential Framework it is not clear that there will be conflicts for S151 officers. But where there are this guidance provides additional support to S151 officers.</p>
33 (SDCT)	<p>Para 23: The point above also relates to this paragraph.</p>	<ul style="list-style-type: none"> See commentary in preceding paragraph.
34 (SDCT)	<p>Para 24 (bullet 2): This point could be made used to show that income from investment provides funding to deliver services.</p>	<ul style="list-style-type: none"> This isn't a point as such but a summary of the statutory guidance. It is agreed that appropriate regard should be given to the statutory guidance.
35 (SDCT)	<p>Para 24 (bullet 6): This point is contradictory to the parts of the guidance that state borrowing for activity purely to generate a profit is unlawful.</p>	<ul style="list-style-type: none"> Again this is a summary of guidance issued by MHCLG.
36 (SDCT)	<p>Para 28: The guidance makes comment around the on-going costs of managing property purchases and the need for sufficient on-going scrutiny of outcomes/performance. This could potentially be an area overlooked by some authorities when putting such schemes forward for member approval, but one would expect evidence of due diligence, picking up and commenting on such factors, to be available before a scheme progresses.</p>	<ul style="list-style-type: none"> Agreed.
37 (SDCT)	<p>Para 36: These are obvious points so do not add any value. This part could be deleted to ensure the guidance is set at the right level.</p>	<ul style="list-style-type: none"> Disagree – this is an important point which anecdotal evidence suggests needs to be considered.
38 (SDCT)	<p>Para 49: This is extreme prudence rather than just prudence. It should recognise that there are risks.</p>	<ul style="list-style-type: none"> Disagree - this paragraph sets out the elements which need to be considered to assess the potential financial impact on an authority's resources of any losses. How an authority might react to the risk exposure will be decided by its own judgement of what would be prudent.

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		This is also required by the government's statutory guidance on investments so this is not extreme prudence.
<i>Detailed Commentary: Part 4 - Will We Acquire Commercial Property?</i>		
39 (SDCT)	Para 57: This statement is clear that authorities should not borrow to invest, but there are exceptions shown elsewhere in the guidance.	<ul style="list-style-type: none"> The guidance illustrates the complex position for investments in commercial properties.
40 (SDCT)	Para 62: This suggests that authorities can borrow to invest and so contradicts Para 57. This needs to be put in stronger terms in the foreword. CIPFA guidance is that it should not be done, but if authorities do, they are required to have certain things in place. This again, is likely to put the s151 officer in a dilemma.	<ul style="list-style-type: none"> As indicated in item 39 it is recognised that there may be exceptions that are marginal decisions. The guidance establishes procedures to consider if that is the case (in a similar way to MHCLG statutory guidance on investments). CIPFA is happy to remove this if this causes confusion but this is likely to appear to reduce some of the flexibility for local authorities.
<i>Detailed Commentary: Annex A</i>		
41 (SDCT)	A1-8: In respect of powers to acquire property, we acknowledge that these are issues that may be best left to lawyers but the only concern with that is that they won't necessarily link it to the Capital Financing Requirement, borrowing and other day to day Treasury Management factors. They may just say this power can be used to acquire and if it is a function then an authority has the power to borrow under S.1.	<ul style="list-style-type: none"> One of the purposes of the guidance was to ensure that where such transactions come within its scope that the legal advice local authorities receive considers the borrowing (and any other) implications under the Prudential Framework. The guidance is intended to assist local authorities with the questions that need to be addressed.
42 (SDCT)	A19-22: The guidance is inconsistent when discussing borrowing in advance of need in that it seems to focus on the old definition which was set out in the Secretary of State Investment Guidance and, whilst we agree with CIPFA's thought process, we need to point out that MHCLG removed that definition in the 2018 version of the Investment Guidance and replaced it with the following: [Extract from MHCLG Statutory Guidance]	<ul style="list-style-type: none"> CIPFA cannot comment on MHCLG guidance. CIPFA's guidance has not changed although it reflects MHCLG commentary in the statutory guidance. CIPFA guidance has to allow for the fact that this is a complex area and some transactions which are marginal might not contradict CIPFA's position relating to '<i>borrowing more than or in advance of their needs purely in order</i>

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	<p>There has been confusion about what the revised borrowing in advance of need paragraph means and whilst we agree that the previous definition was very useful and provided something which set out clear guidance it has changed, and the guidance may want to consider that point before the document is released. The revised MHCLG guidance also removed reference that it related to investment under the S.12 power and have included references to items that are expenditure. Again, this has been addressed in A23 to A29 and, whilst the guidance makes some very good arguments, it still accepts that any decision of use of powers would ultimately sit with the Courts when, in fact, clarity is required.</p>	<p><i>to profit from the investment of the extra sums borrowed</i>'.</p> <ul style="list-style-type: none"> • CIPFA cannot provide a definitive view if the courts have not provided such an interpretation.
43 (SDCT)	<p>A25: See comment on Part 2 Para 14 above regarding "substantial speculative elements".</p>	<ul style="list-style-type: none"> • See item 30.
44 (SDCT)	<p>There is reference in the ITC to internal borrowing. For example, in Annex A A33, the guidance seems to imply it is legitimate to externalise an internal borrowing position to provide cash to acquire commercial property. This is something of a red herring. Internal borrowing is simply a strategic and temporary under-borrowing position, vis-à-vis the historic capital financing requirement, facilitated by surplus working capital/cashflow and cash backed reserves and balances. It, therefore, follows that if new commercial activity does not result in an increase in the capital financing requirement it must mean it isn't capital expenditure and would, therefore, be an investment under S.12.</p> <p>Furthermore, in the diagram it exemplifies a £100m CFR that pertains to previous capital expenditure which was not fully funded. The authority in the example has taken £95m external</p>	<ul style="list-style-type: none"> • The guidance includes references to internal borrowing to demonstrate that the decisions are complicated by this practice. • The guidance reflects the fact that where local authorities have surplus cash then it needs to be invested. In those circumstances local authorities can legitimately choose between a traditional financial instrument and an investment in property with commercial returns. In such circumstances provided local authorities consider all the risks surrounding the investment, the commentary in paragraph 45 in the Prudential Code is not triggered. • CIPFA agrees that it does not create any further headroom for new capital expenditure.

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	<p>loans and £5m internal loans. All things being equal, they still have a potential £5m of their balance sheet resource available to invest (e.g. Reserves/Balances/Provisions/Capital Receipts/Grants Unapplied) with counterparties. If they externalise the residual £5m internal borrowing with external loans the Capital Financing Requirement remains at £100m and external loans will be increased to £100m. The authority, therefore, only increases the cash available to invest using the S.12 power. It does not create any headroom to fund new capital expenditure.</p>	