

12 May 2020

## **LGA response to HM Treasury Public Works Loans Board, future lending terms**

### **Purpose**

To approve the LGA's response to the consultation from HM Treasury on the future lending terms of the Public Works Loans Board (PWLB).

### **Summary**

The report outlines HM Treasury's consultation on proposed future lending arrangements for the Public Works Loans Board (PWLB), and seeks comment on, and approval of, the LGA's draft response to the consultation, attached as **Appendix 1**.

### **Recommendation**

That subject to any comments from members, the attached submission to the consultation be approved.

### **Action**

That the approved submission be submitted to HM Treasury.

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## **LGA response to HM Treasury Public Works Loans Board, future lending terms**

### **Background**

1. On 9 October last year, [HM Treasury announced](#) an immediate 1 per cent increase in the rate charged by the Public Works Loans Board (PWLB) on new loans to local authorities. This caused widespread dismay in the sector and fears that it would lead to many vital capital housing and infrastructure projects to be reviewed, postponed or even cancelled. In some statements Ministers at least partly linked the rise to a desire by the Government to curtail borrowing being undertaken by a minority of councils to fund investment in particular types of property purchases which have been undertaken primarily to generate income (for example in answers to [Parliamentary select committee questions](#)<sup>1</sup>).
2. Following calls from the LGA and others, in his March Budget the Chancellor announced that PWLB would offer discounted loans for specific infrastructure projects and for social housing projects funded through the housing revenue account. These discounts will take rates back to or below the rates offered before the October rise. However, they are only available for qualifying projects and are subject to specific application and approval.
3. At the same time, the Chancellor launched a [consultation on the future lending arrangements](#) for the PWLB. This consultation closes on 4 June and this paper outlines a proposed response from the LGA which is appended for comment and approval.
4. The consultation paper was issued before strict measures were implemented to address the COVID-19 pandemic. The COVID-19 pandemic has raised serious questions about the role of the PWLB and how it could be improved to support councils.

### **Issues raised by pandemic – additional points for response**

5. Many councils have faced cash flow shortfalls as a result of the crisis. In order to meet essential commitments, they face having to take-out short-term loans at expensive rates. Such loans would take resources away from front line services and divert them to financial institutions. The Government has acted quickly to help by paying grants up front and by the deferral of business rates payments centrally. These have provided councils with a breathing space. The PWLB could provide a permanent solution to cash flow problems by offering low-cost short-term loans to local authorities.

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<sup>1</sup> See answer to Question 50, Housing, Communities and Local Government Committee, Oral evidence: Work of the Secretary of State 2019, Monday 28 October 2019

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6. Councils are also facing extraordinary costs of dealing with the pandemic as well as losing significant income streams and the opportunity to implement planned savings programmes. Further help could be given to councils by PWLB allowing for some loan repayments to be delayed. This would be a temporary measure; the loan would still have to be repaid but at a later date. However, the local government sector has also noted that NHS bodies have been allowed to write off debts as a result of the COVID-19 crisis and several local authorities have called for the same dispensation.
7. It is proposed that the response to the consultation is taken as an opportunity to call on the Government to implement these two schemes quickly and urgently to help councils through the current crisis. This needs to be done as soon as possible and not wait for the outcome of the consultation or for the Comprehensive Spending Review.

### **Summary of the proposals in the consultation**

8. The [consultation document](#) is quite lengthy and it includes 40 specific questions to be answered. Many of these questions are aimed at individual councils and it may be that the PWLB is using the opportunity of the consultation to undertake a survey of its users. It is proposed that the response from the LGA does not address these directly as they seem to be survey related (this covers questions 1-3, 12-13, 15, 19, 23-28, and 37-39) but instead encourages the PWLB to listen to the views of individual councils.
9. The stated aim of the consultation is that it is a “limited intervention to address the specific issue (described in this document as ‘debt-for-yield’)” of “a minority of local authorities borrowing from the Public Works Loan Board (PWLB) to buy investment assets primarily for yield”. The proposals include a number of other minor adjustments to the lending arrangements, but this issue is at the core of the proposals in the consultation.
10. In summary the proposed changes to achieve that are as follows
  - 10.1 Councils Chief Finance Officers (CFOs) will be required to certify annually that they are not going to use capital spending to buy investment assets primarily for yield.
  - 10.2 Without that certification, councils will not be eligible to access any PWLB loans for any purposes in that year.
  - 10.3 If a local authority subsequently does buy an investment asset primarily for yield in that year (no matter how it is specifically funded) it will have to immediately repay any PWLB borrowing undertaken that year (*including early repayment penalties*).
  - 10.4 Lower interest rates (lower margin over gilts) will be introduced for all lending once this system is in place.

- 10.5 The new arrangements are designed to affect capital only; Treasury Management investments should be unaffected.

### Proposed response

11. Overall the proposals seem out of proportion to the “problem” that they seek to solve (if it is indeed a problem), and there is danger that it will make it difficult for local authorities to continue to access PWLB borrowing for other purposes and have unintended consequences for councils ability to make key capital investments to meet priorities such as housing, infrastructure and regeneration. It is proposed that the response picks up these practical difficulties in answering specific questions. However, members may wish the response to address the more fundamental point that in extending the prohibition on PWLB borrowing to the whole capital programme, it places Debt Management Office officials in the position of adjudicating on what can and cannot be financed in that year. Under the Prudential Code, these decisions are a matter for elected Councillors. As a result, these proposals impose ‘back door’ controls on council spending which have been delegated to councils by Parliament. It is unacceptable that government officials should take this power to themselves. This point is expanded in the proposed response.
12. The practical difficulties are headed by the lack of a clear understanding of what constitutes an “investment asset primarily for yield”. Councils have always owned and managed properties and many of these have a rental element to them that can lead them to be seen as being held for “investment for yield” purposes, but that may not be the sole reason they are held. An individual property can be held for several different reasons at the same time. Property that is held for service reasons – for example, for place shaping or for economic regeneration such as plans to regenerate high streets by changing and influencing the mix of use of properties, may also generate a commercial rental income, which may or may not more than cover the costs of holding the property and so result in a “yield”. The consultation document does recognise this and includes a few hypothetical case study examples of possible investments; however, while the hypothetical examples may appear to be clear, real life situations are unlikely to be so clear and this is likely to cause considerable confusion. This point is also expended in the draft response.
13. When the consultation was launched it was stated that it would go hand in and with a series of regional roundtables with stakeholders in the sector. It has not been possible to hold such events in current circumstances. It is suggested that the response draws attention to this and to concerns that this may result in a worse outcome. Open discussion at such a forum should have allowed detailed exploration of the practical problems posed by the proposals and might have created an opportunity for alternative proposals to be formulated that could addresses HM Treasury’s concerns, without the need for the drastic action proposed in the consultation.
14. The proposed answers to the detailed questions build on the points made above. However, in addition, questions 5 and 6 cover the point as to whether it is appropriate

that there is an annual assessment of whether councils have or will undertake any purchases of “investment assets primarily for yield”. As outlined above, the overall proposed response is that the requirement for such an assessment is wrong in principle. However, it is proposed that the response to these questions recognises that in the case of the proposals being implemented, it would be better for such an assessment to be on a case by case basis for each loan undertaken rather than an annual one, and that this should not result in a global restriction of other in year borrowing. This would obviate some of the practical difficulties with the proposals, although it would not overcome the fundamental objection in principle.

15. Question 10 covers application of the proposals to Scotland and Wales. The PWLB covers the UK as a whole and it is not obvious why new arrangements would apply differently in Scotland and Wales (nor is this being proposed), however it is suggested that the response to this question defers to the Welsh LGA and CoSLA for views on arrangements in their countries. Question 11 covers application to smaller authorities (e.g. Town and Parish councils) and it proposed to support the proposal that the new restrictions do not apply to these. This issue will be discussed with the Welsh LGA.
16. The LGA’s draft response is appended to this report (**Appendix 1**). For ease of reference this shows the questions in full that it is proposed that the LGA response addresses, as well as the proposed answers.

### **Implications for Wales**

17. PWLB lending applies to all local authorities in England, Scotland, and Wales. As outlined above there is a question in the consultation as to whether the new arrangements should apply to Scotland and Wales as well as England; this will be discussed with the Welsh LGA.

### **Financial implications**

18. This work is part of the LGA’s core programme of work and as such has been budgeted for in the 2020/21 budgets.