Society of District Council Treasurers

Response to DHLUC: Consultation on MRP

Introduction

The Society of District Council Treasurers (SDCT) 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 SCDT welcomes the opportunity to comment on this consultation.

General Points:

As a first point we consider the timeline associated with implementation to be impractical. Councils will have set their TMS and MRP policies for the year without these requirements in place and this will leave them immediately in a difficult position for 2024/25. It could potentially fundamentally change their budgetary position for 2024/25 and even push them into s114 territory off the back of it, especially bearing in mind this change is still in consultation until 15th February 2024, there is little time to reasonably consider and take account of any consultation responses.

This will also put auditors into a difficult position as to what their position is on this matter when audits are sufficiently challenged as it is and seeking to recover their timelines.

In addition, there appears to be no allowance for transitional arrangements this is unreasonable and unfair. Treasurers may be inheriting or seeking to deal with investments which may take time to extract from and any implementation needs to be cognisant of this. We understand the point the government is seeing to make but Councils needs to be given the time to make investment decisions that do not include fire-sales and loss of capital due to unnecessary haste.

Specific Matters:

The revised Guidance has been updated to clarify that whilst there is no specific statutory exemption from providing MRP on the HRA element of the CFR, the depreciation and Major Repairs Reserve (MRR) accounting requirements mean that MRP is not required if the Authority determines this is prudent.

The revised Guidance provides no additional clarity regarding the exclusion of Adjustment A from the CFR. The current wording in the revised Regulations will only allow authorities to exclude the amount of their CFR from the MRP calculation where paragraphs (3) and (4) of the regulations apply. Our interpretation of this is that it will restrict the use and application of Adjustment A. Most authorities calculated an Adjustment A figure on transition to the current capital financing framework in 2004. This is an historical amount that is included within the CFR and permanently deducted from the debt liability used in the MRP calculation.

It is specifically allowed under Option 1 of the “ready-made” options set out in the Guidance. If DLUHC now wish to restrict the application of Adjustment A, as the revised Guidance suggests, this appears to be in conflict with the revised Guidance which allows Adjustment A to be deducted from the CFR in Option 1. As a result, the general scale of Adjustment A for many authorities would mean that if required to provide MRP on this amount within the total CFR (which has been excluded for 20 years) it may add further financial pressure.

As well as updating the draft Guidance to reflect the 2024 amendment regulations, DLUHC have also introduced additional changes intended to provide general clarity to the Guidance which have not previously been consulted upon that could have a significant impact for authorities.

The main additional changes to highlight that are potentially a cause for concern are set out below: • Increased challenge by auditors. Guidance is issued by the Secretary of State under section 21(1A) of the Local Government Act 2003. Under that section local authorities are required to “have regard to” the Guidance. Paragraph 25 of the revised Guidance now includes additional wording on the meaning of “have regard to” which suggests that where authorities do not follow the Guidance to the letter then those decisions may be challenged. SDCT are of the view that it is the Authority’s decision to ascertain what is prudent for their authority, and as paragraph 41 of the revised Guidance still allows alternative methods to be used, this view has not changed.

• Changing the methods for calculating MRP to reduce the revenue charge is not prudent. Wording has been added to paragraph 32 to emphasise that any changes to the MRP methodology should only be made where the new methodology is more prudent and not primarily to “reduce the revenue charge”.

• The government is allowing itself and auditors to pursue a more active role in determining what is prudent. Paragraph 30 of the informal commentary deletes wording previously included in the 2018 Guidance “however the decision on what is prudent is for the authority and it is not for MHCLG to say in particular cases whether any proposed arrangement is consistent with the statutory duty”. The removal of this sentence could imply that it is not the Authority’s decision to determine what is prudent and auditors will therefore have more of a say, as the wording relating to consulting with auditors has remained.

SDCT disagree with this change as it should ultimately be the Authority’s decision as to what is prudent. Paragraph 52 of the informal commentary adds wording “Where local authorities are applying asset lives longer than 50 years, they should discuss this with their auditors and, where necessary, DLUHC.” Paragraph 63 of the revised Guidance allows authorities to exceed 50 years where a qualified professional opinion has been obtained. The requirement for audit and DLUHC to decide is inconsistent with the revised Guidance and seems unnecessary.

Ultimately it should be the Authority’s responsibility to determine what is prudent, as highlighted in the previous bullet points. It is not clear why these changes have been made. • The use of options 3 and 4 for supported borrowing is not appropriate. Paragraph 60 of the revised Guidance adds in new wording “It is not expected that these options are appropriate for supported capital expenditure”. Three quarters of all authorities in England currently apply option 3 or 4 for supported borrowing. As a result, this **recent** change to the Guidance (which authorities are required to “have regard to”) has far-reaching implications. For 20 years the Guidance has specifically allowed the use of Options 3 and 4 for supported borrowing. This is clearly stated in the 2008, 2010 and 2012 versions of the MRP Guidance : “Options 1 or 2 may be used only for supported expenditure. Methods of making prudent provision for self-financed expenditure include Options 3 or 4 (which may also be used for supported expenditure if the authority so chooses).”

In the current 2018 version of the MRP Guidance this wording was replaced with the expectation that options 1 and 2 should normally be available only for Government-supported borrowing and options 3 and 4 are meant to be used for all self-financed borrowing. The current 2018 wording does not therefore exclude the use of options 3 or 4 for supported borrowing. It is not clear, why the Guidance has been changed in this way, or the reason(s) why DLUHC appear to now view the historic reducing balance method as appropriate / the only prudent approach for supported borrowing.

The decisions to change from a reducing balance method have been predicated on existing Guidance backed up by CIPFA guidance allowing them to do so. To now insert new wording into the revised Guidance that will effectively prevent a previously allowable approach that has been applied, in some cases for the last 20 years (back to 2003/4) is not a reasonable amendment. Given that the changes in the regulations were intended to address situations where MRP had not been provided for borrowing to support an investment asset or capital loan, it is not clear how this new change for supported borrowing will achieve the government's original objective. As a result of this new change, it will cause unnecessary issues for many authorities, which could now be seen as deviating from the Guidance and will need to justify their reasons for doing so.

Despite this change paragraph 41 of the revised Guidance and paragraph 28 of the informal commentary still permit alternative methods to be used: "This does not rule out or otherwise preclude a local authority from using an alternative method should it decide that is more appropriate"; "Local authorities must always have regard to the Guidance, but having done so, may in some cases consider that a more individually designed MRP approach is justified. That could involve taking account of detailed local circumstances, including specific project timetables and revenue-earning profiles". If DLUHC do not remove this new change to the revised Guidance, then impacted authorities' MRP policies will need to state that an alternative method is being used and disclose the reasons why the alternative method is considered more prudent as per the new requirements for the MRP Statement discussed below. The rationale should be simple for most as the historic reducing balance options resulted in a much longer period of writing down the debt liability than the asset life method. • The revised Guidance sets out more detail on what an Authority's statement of its policy on making MRP ("MRP Statement") should contain. Paragraph 31 has been added to the revised Guidance that sets out seven areas that should be included in the MRP statement as a minimum.

This includes details of the rationale and financial impact of changes to the MRP policy, how the Authority has ensured it is complying with its duty to make a prudent provision and explaining any departures from the Guidance. Whilst we understand this is to give transparency to Members, the "minimum" requirement is very prescriptive compared to the previous Guidance, this will require more time and resources to prepare, communicate and address any concerns from Members and increased scrutiny from Auditors. Because the revised Guidance and amendment regulations will be effective from 1 April 2024, Authorities' MRP policies for 2024/25 will need to be reviewed and revised. The timing of the latest consultation will not provide sufficient time for many authorities to incorporate the new minimum requirements and any other changes required, into the already written MRP policies for 2024/25 which typically to go to Full Council for approval early in January and February. For some authorities, the MRP Statement will become much longer and detailed, and take additional time to write.

Thank you for considering our response on this matter.

Society of District Council Treasurers

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