



Department of the
Environment

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Local Government Policy Division 1

To all Council Mayors, Chairs and Chairs of
Statutory Transition Committees

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Circular LG 22/2014 REFORM

Email: Jeff.glass@doeni.gov.uk

Your reference:
Our reference:
Date: 28 May 2014

Dear Mayors, Chairs and Statutory Transition Committee Chairs

EXPENDITURE CONTROLS FOR COUNCILS IN SHADOW FORM

The Department has prepared guidance (attached) for the new councils in relation to the control of expenditure during the shadow period. This guidance and the associated Direction have been agreed by the Minister and are operational with immediate effect.

The guidance relates specifically to Departmental Direction on Expenditure Controls dated 26 May 2014 (also attached).

Yours faithfully

JEFF GLASS
HEAD OF FINANCE
Local Government Policy Division 1

cc. Ms Louise Mason, Chief Local Government Auditor
Mr Rodney Allen, Director
Finance Officers, District Councils
Change Managers
Mr Kieran McMahon, DOE
Mr Conor McGinn, DOE
Mr Terry Curran, DOE

Encs.

LOCAL GOVERNMENT REFORM

GUIDANCE ON EXPENDITURE CONTROLS AND THE ROLE OF THE NEW COUNCILS DURING THE SHADOW PERIOD

**DEPARTMENT OF THE ENVIRONMENT
LOCAL GOVERNMENT POLICY DIVISION
28 MAY 2014**

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GUIDANCE ON EXPENDITURE CONTROLS AND THE ROLE OF THE COUNCILS DURING THE SHADOW PERIOD

Background

This circular is one of a series of guidance notes issued by the Department in relation to the operation of the new councils during the shadow period between 26 May 2014 and 31 March 2015, until the 11 new councils will become fully operational. It is intended to assist the existing councils and the new councils in shadow form in maintaining control over capital and other expenditure and borrowing of the existing councils in the run-up to 1 April 2015.

The circular sets out the current legislative and statutory requirements as stated in Chapter 2 of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (as amended by the Local Government Act (Northern Ireland) 2014).

1. DIRECTIONS

- 1.1. The Department of the Environment (The Department) will issue a direction obliging the existing council to seek the written consent of the relevant new council (in shadow form) in relation to certain expenditure.
- 1.2. The direction will be in writing.
- 1.3. The direction will make different provision in relation to different matters for which consent is required, i.e. a direction may deal with disposals, capital contracts and non-capital contracts and borrowing.
- 1.4. The direction may be varied or revoked by a subsequent direction.

2. THREE YEAR CAPITAL PLANS AND REVENUE FORECASTS

- 2.1 Councils must have regard to the CIPFA "Prudential Code for Capital Finance in Local Authorities" (the Prudential Code) when carrying out their duties in Northern Ireland under Part 1 of the Local Government Finance Act (Northern Ireland) 2011.
- 2.2 The Prudential Code requires the development of three-year revenue expenditure forecasts as well as three-year capital plans.
- 2.3 The Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (as amended by the Local Government Act (Northern Ireland) 2014) taken together with the Departmental direction, provides that existing councils must, in the period 26 May 2014 to 31 March 2015, seek the consent of the new councils (in shadow form) before making a disposal of land where consideration exceeds £100,000, entering into a capital contract where consideration exceeds £250,000, entering into a non-capital contract where consideration exceeds £100,000 or entering into borrowing arrangements where the sum borrowed exceeds £250,000.

2.4 The simplest way of achieving this would be for councils to have their three year capital plans and revenue expenditure forecasts examined and approved by the new council (in shadow form) at the beginning, which would mean that only those transactions above and beyond what are in the three year capital plans and revenue expenditure forecasts would subsequently have to be referred to the new council (in shadow form).

2.4 All other disposals, capital contracts and non-capital contracts and borrowings outside of the three-year capital plans and revenue expenditure forecasts should comply with the direction issued by the Department and the guidance set out in paragraphs 3 – 7 below.

3. DISPOSALS

3.1. The Department will issue a direction to oblige an existing council to seek the written consent of its new council (in shadow form) to dispose of any land if the consideration for that disposal is in excess of £100,000.

3.2. The direction will specify a date from which the direction will take effect. The date is 26 May 2014.

4. CAPITAL CONTRACTS

4.1 A capital contract is one in which the consideration payable by the council is capital expenditure. Capital expenditure is that expenditure that falls to be capitalised in accordance with proper accounting practices (within the meaning of Article 6(3) of the Local Government (Northern Ireland) Order 2005.

4.2 The Department will issue a direction to oblige an existing council to seek the written consent of its new council (in shadow form) to enter into any capital contract:

- under which the consideration payable by the council exceeds £250,000; or

- which includes a term allowing the consideration payable by the council to be varied.

4.3 The direction will specify a date from which the direction will take effect. The date is 26 May 2014.

5. NON-CAPITAL CONTRACTS

5.1 A non-capital contract (including an employment contract) is any contract that is not a capital contract.

5.2 The Department will issue a direction to oblige an existing council to seek the written consent of its new council (in shadow form) to enter into any non-capital contract under which the consideration payable by the council exceeds £100,000, where:

- the period of the contract extends beyond a specified date (31 March 2015); or
- under the terms of the contract, that period may be extended beyond that date.

5.3 The direction will specify a date from which the direction will take effect. The date is 26 May 2014.

6. BORROWING

6.1 Under section 11 of the Local Government Finance Act, a council may borrow money –

- for any purpose relevant to its functions under any statutory provision; or
- for the purposes of the prudent management of its financial affairs.

6.2 The Department will issue a direction to oblige an existing council to seek the written consent of its new council (in shadow form) to enter into any

borrowing arrangement where the sum borrowed by the council exceeds £250,000.

- 6.3 The direction will specify a date from which the direction will take effect.
The date is 26 May 2014.

7. CONSENT REFUSED OR GRANTED SUBJECT TO CONDITIONS

- 7.1 If the consent of a new council (in shadow form) is required in relation to:

- a proposed disposal;
- a contract; or
- a borrowing arrangement,

of an existing council and is refused by the new council (in shadow form) or is given subject to conditions, the existing council may refer the decision of the new council (in shadow form) to the Department.

- 7.2 Where the decision is referred to the Department, the Department may:

- confirm the decision of the new council (in shadow form);
- if consent has been given by the new council (in shadow form) but is subject to conditions, amend or revoke those conditions; or
- if consent has been refused by the new council (in shadow form), grant the consent unconditionally or subject to conditions.

8. CONTRAVENTION OF DIRECTION

- 8.1 Any disposal made by an existing council in contravention of a Departmental direction is void.

- 8.2 Any contract entered into by an existing council in contravention of a Departmental direction is not enforceable against a new council.

Direction made under section 10 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010.

- 1) In exercise of the powers under section 10 of the Local Government (Miscellaneous Provisions) Act 2010 (as amended by the Local Government Act (Northern Ireland) 2014), the Department of the Environment (“the Department”) makes this direction which has effect from 26 May 2014.
- 2) This direction revokes the direction dated 25 September 2013 and issued by the Department on 26 September 2013.

Interpretation

- 3) In this direction “the new council” means the council elected to the relevant district area on 22 May 2014.
- 4) In this direction:
 - a) “Antrim and Newtownabbey council” means the new council for the Antrim and Newtownabbey District;
 - b) “Armagh, Banbridge and Craigavon council” means the new council for the Armagh, Banbridge and Craigavon District;
 - c) “Belfast council” means the new council for the Belfast District;
 - d) “Causeway Coast and Glens council” means the new council for the Causeway Coast and Glens District;
 - e) “Derry and Strabane council” means the new council for the Derry and Strabane District;
 - f) “Fermanagh and Omagh council” means the new council for the Fermanagh and Omagh District;
 - g) “Castlereagh and Lisburn council” means the new council for the Lisburn and Castlereagh District;
 - h) “Mid and East Antrim council” means the new council for the Mid and East Antrim District;
 - i) “Mid Ulster council” means the new council for the Mid Ulster District;
 - j) “Newry, Mourne and Down council” means the new council for the Newry, Mourne and Down District; and
 - k) “North Down and Ards council” means the new council for the North Down and Ards District.

General

- 5) The Department directs each council listed in Column A of the attached Schedule, being a council which is to be dissolved by virtue of the Local Government (Boundaries) Order (Northern Ireland) 2012, that it may not, without the written consent of the new council listed against it in Column B of the attached Schedule:
 - a) make any disposal of land, if the consideration for the disposal exceeds £100,000;
 - b) enter into any capital contract;

- i. under which the consideration payable by the relevant council exceeds £250,000; or
 - ii. which includes a term allowing the consideration payable by the relevant council to be varied;

- c) enter into any non-capital contract under which the consideration payable by the relevant council exceeds £100,000. A non-capital contract is any contract that is not a capital contract. Such contracts may include:-
 - i. employments contracts (individual employment contracts over £100,000 per annum and fixed term contracts of employment exceeding £100,000 in total over the length of the fixed term);
 - ii. service contracts (such as asset maintenance contracts (individual contracts over £100,000 per annum and fixed term contracts exceeding £100,000 in total over the length of the fixed term)); and
 - iii. revenue contracts (such as those for accountancy or legal services (individual contracts over £100,000 per annum and fixed term contracts exceeding £100,000 in total over the length of the fixed term)); or

- d) enter into any arrangement to borrow a sum of money which exceeds £250,000.

Signed by the authority of the Department of the Environment



Date: 28/5/14

A senior civil servant

Department of the Environment

SCHEDULE

Column A – authorities to be dissolved on 1 April 2015	Column B – Councils in shadow form whose written consent is required for the matters specified under section (5)
Antrim Borough Council	Antrim and Newtownabbey
Ards Borough Council	North Down and Ards
Armagh City and District Council	Armagh, Banbridge and Craigavon
Ballymena Borough Council	Mid and East Antrim
Ballymoney Borough Council	Causeway Coast and Glens
Banbridge District Council	Armagh, Banbridge and Craigavon
Belfast City Council	Belfast
Carrickfergus Borough Council	Mid and East Antrim
Castlereagh Borough Council	Castlereagh and Lisburn
Coleraine Borough Council	Causeway Coast and Glens
Cookstown District Council	Mid Ulster
Craigavon Borough Council	Armagh, Banbridge and Craigavon
Derry City Council	Derry and Strabane
Down District Council	Newry, Mourne and Down
Dungannon and South Tyrone Borough Council	Mid Ulster
Fermanagh District Council	Fermanagh and Omagh
Larne Borough Council	Mid and East Antrim
Limavady Borough Council	Causeway Coast and Glens
Lisburn City Council	Castlereagh and Lisburn
Magherafelt District Council	Mid Ulster
Moyle District Council	Causeway Coast and Glens
Newry and Mourne District Council	Newry, Mourne and Down
Newtownabbey Borough Council	Antrim and Newtownabbey
North Down Borough Council	North Down and Ards
Omagh District Council	Fermanagh and Omagh
Strabane District Council	Derry and Strabane