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UNISON Scotland

Relaxing borrowing rules for councils

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The new draft Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 cover changes to the statutory arrangements for local authority borrowing, lending and the statutory loans fund. They were the subject of a short consultation at the end of 2015. The Regulations and draft Statutory Guidance on Loans Fund Accounting are set to come into effect, with any changes following the consultation, from 1 April 2016.

Consultation documents state that the approach taken in The Local Government (Scotland) Act 1975, which lists the sources of local authority borrowing – banks, Public Works Loan Board, stock, bonds, bills etc – is to be replaced with a general power to borrow from any source. "In place of prescription, the regulations require a local authority, when exercising its power to borrow, to have regard to recognised codes." These include the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management and Prudential Codes.

The Prudential Code requires an authority to set, and keep under review, an 'authorised limit for external debt', consistent with capital plans and cash flow requirements. The Regulations are less prescriptive than the previous provisions, letting councils decide details of the administration of the loans fund. They require a loans fund to be administered in accordance with prudent financial management. The Guidance says that prudent will, in most instances, require repayment of debt over the life of an asset that is the subject of the borrowing.

UNISON broadly welcomes the proposed changes. We called in our Combating Austerity report for the Scottish Government to speed up long overdue plans to relax the repayment of loans fund regulations, arguing that councils should be given greater flexibility. Exploring all options and making full use of flexibility in new borrowing or refinancing/restructuring existing borrowing could potentially free up significant sums at a time of austerity cuts. Based on experience elsewhere, this could save upwards of £50 million.

The move finally comes after a 2011 consultation on the maximum periods over which loans fund advances are repaid, then the establishment of a further review group (COSLA, the Scottish Government, Audit Scotland and CIPFA) to review legislative provisions, following Scottish Government pledges in 2014 at the time of the Glasgow and Clyde Valley City Deal. The group's remit pointed out that "the City Deal councils looked at the English City Deals and determined that the statutory arrangement for the repayment of money borrowed by English authorities provide a financial flexibility that is not available to Scottish Councils."

We urge the Scottish Government to include proposals from the review group that are not currently in the draft Regulations: a **new** provision to enable a local authority to borrow to either make grants to third parties where these grants fund capital expenditure, or for the authority to incur expenditure directly on third party tangible assets; a **new** provision for a local authority to be able to borrow to lend to any of its subsidiary bodies where the loan is to be used to finance capital expenditure of the subsidiary. An example of how this could help public services, both councils and health boards, would be if councils could use this type of borrowing to support, e.g. buyouts of expensive PFI contracts or, perhaps, to finance new conventional spending via Integration Joint Boards, offering health boards an alternative to expensive hub/PPP/PFI/NPD schemes. While we would argue this is feasible now under existing powers, this proposal would make it explicit, clear and simple, encouraging innovation and more efficient use of public funds. Branches can propose these and other measures detailed in our Combating Austerity report.

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