

PWLB Guidance – August 2021 Update

In March 2020 the government consulted on revising the PWLB's lending terms to look to end the use of PWLB loans to support acquisitions primarily for yield. The reforms that were consulted on were then implemented on 26th November 2020. Meaning any capital spending commitment from this date must comply with the terms to access PWLB borrowing.

A revision to the guidance was published on 12 August 2021 and provides further clarification on specific points based on feedback from local authorities.

The guidance provides broad definitions of the permissible categories of local authority capital expenditure (service delivery, housing, regeneration, preventative action, and treasury management) to encapsulate the core activities of local authorities which the government wishes to support whilst setting out a stricter definition of investment assets bought primarily for yield.

The lending terms do not prevent local authorities from making a significant investment to improve and/or change the use of an asset that is not owned by the local authority where it serves a direct policy purpose. Local authorities may also deliver policy objectives through a third party (housing company, Joint vehicle, or joint venture and a Woc). If local authorities wish to deliver policy objectives through third parties by lending on money, the government expects the spending to be reported in the most appropriate category for the end goal of the eventual use of the money.

Defining Activity

Service Delivery – expenditure on assets that form part of the authority's public service delivery.

Housing – spending on delivering new homes, maintaining, or improving existing homes, and purchasing built homes to deliver housing services. It is expected that the location and the value of any housing expenditure is appropriate to meet the local authority's housing needs.

Regeneration – direct investments in assets to generate additional social or economic benefits and have one or more of the following characteristics:

1. Addressing an economic or social market failure by providing services, facilities or other amenities that are value to local people and would not be otherwise provided by the private sector
2. Making a significant investment beyond the purchase price developing the assets to improve and/or change their use, or otherwise making a significant financial investment
3. Project involves or generates significant additional activity that would not otherwise happen without the local authority's intervention creating jobs and or social economic value.

Some parts of regeneration may generate rental income, these rents should be recycled within the project or applied to related regeneration projects rather than being applied to wider services.

Preventative Action – direct financial support to local companies or acquiring assets to protect jobs prevent social or economic decline. This is distinguished from regeneration as this activity is associated with preserving the existing activity as opposes to creating additional activity. This type of action would have all the following characteristics:

1. Intervention prevents a negative outcome such as buying and conserving assets of community value that would otherwise fall into disrepair or providing support to maintain economic activity that would otherwise cease.

2. There is no realistic prospects of support from a source other than the local authority
3. The local authority has an exit strategy and does not propose to hold the investment for longer than necessary
4. The intervention takes the forms of grants, loans, sales and leaseback, equity injections or other forms of business support.

Treasury management – refinancing or extending existing debt from any source. The externalisation of internal borrowing or borrowing to manage cashflow within the year, which local authorities often finance through PWLB borrowing or other capital resources.

Authorities must not pursue a deliberate strategy of using private borrowing or internal borrowing to support investment in an asset that the PWLB would not support and then refinance or externalise this with PWLB loans.

Investment Assets bought primarily for yield – are assets that serve no direct policy purpose but is held primarily to generate an income. These assets would usually have one or more of the following characteristics:

1. Buying land or existing buildings to let out at market rate.
2. Buying land or buildings which were previously operated on a commercial basis which is then continued without any additional investment or modification
3. Buying land or buildings other than housing which will generate income and are intended to be held indefinitely rather until the achievement of some meaningful trigger such as the completion of land assembly
4. Buying a speculative investment that generates yield without a direct policy purpose.

If a local authority plans to buy an asset primarily for yield the authority will be unable to borrow from PWLB to finance any capital expenditure for 3 years. Authorities cannot use receipts from selling existing primarily for yield assets to acquire new primarily for yield assets but can use the receipts to fund other capital expenditure.

Reviewing Decisions

Local Authorities S151's is expected to make an assessment on whether a project or transaction complies with PWLB's lending terms.

Local Authorities should expect that their auditors will review internal decision-making processes around borrowing and investment including whether plans are compliant with the PWLB's lending terms. Auditors cannot overrule the assessment of the 151 but can raise concerns for the government to then review.

If the government has concern before the loan is issued:

1. The advance will be suspended while government works with the applicant to determine whether the borrowing is within the lending terms
2. If the planned transaction is deemed inappropriate authority will be asked to cancel the project.
3. As a condition for ongoing access to PWLB the authority may have to provide additional information about their future capital plans
4. If the authority refuses, they will not be allowed to borrow from PWLB

If the government has concerns after the loan has been issued:

1. HM Treasury may offer a higher interest rate on the PWLB loan
2. As a condition of ongoing access to PWLB the authority will be required to provide additional information about their future capital plans
3. If the transaction was in clear breach of the rules HM Treasury may also require that the authority agrees a plan to unwind the transaction
4. HM treasury would reserve the right to require the loans to be repaid in full, with any applicable exit charges.

Examples given by HM treasury of acceptable and not acceptable lending

Example 1

A Council purchases a former office block within its area, this block has been empty for 24 years and has planning permission for 47 apartments with a small shop.

PWLB will support this activity as acquisition and conversion is a clear example of regeneration

Example 2

A Council purchases a major supermarket outside the area but within region. There is potential for redevelopment in the future.

PWLB will not support this activity as it is unlikely this activity is delivering public services, housing, or regeneration

Example 3

A Council purchases a town centre hotel and retail units within its local area. The plan for this purchase is to build a new leisure development, which will help fund a new health centre bus station and community library. It will create an economic boost and 400 jobs and generate another £570k in business rates.

PWLB will support this activity as it is clearly aimed at regenerating the town centre.

Example 4

A Council purchases a business campus within its local area. It costs £126 million and generates a financial return of £20 million over a 30 year period. The site is at 98% occupancy with many high profile tenants and 3,500 workers on site. There is potential for new offices to be built on the sites free space.

The PWLB will not support this kind of activity. The purchase is not delivering services, housing, or regeneration. The high occupancy rate suggests there is no market failure.

Example 5

A council purchases a shopping centre and offices within its local authority area. The centre is on a struggling high street and has many vacant units. The offices adjacent to it have been vacant for several years. The authority plans to demolish it and promote a redevelopment of the high street.

The PWLB will support this activity as it is clearly aimed at regeneration. Council needs to be clear about how surplus income would be spent and ensure it is not being directed towards general service spending.

Example 6

A Council purchases an office building within the district from the receipts from another commercial property sale.

The Council has identified a building within its area that is occupied by five businesses with long term lease agreements. Council intends to purchase the office building by selling off an out of area asset and using the capital receipt, so no borrowing is required from PWLB.

PWLB will not support this activity. This is purchasing a new asset primarily for yield

Example 7

A council purchases a complex of homes, shops, and offices within its local area. It costs £78 million. A private developer bought the site four years earlier for £37 million and refurbished and rebranded it. Council will make a net income of £4 million per annum

PWLB will not support this sort of activity as there is no evidence of market failure or meaningful investment or change of purpose.

Example 8

A Council purchases land in its town centre. The council aims to reconnect the town centre to the river by renovating the space between the two improving riverbanks and delivering wayfinding and seating. Creating social value and encourages active travel such as walking cycling.

PWLB will support this activity because the land has been purchased for social value making it a clear example of regeneration.

Example 9

A council purchases housing through a wholly owned housing company. The company was set up to address the housing shortage in the area. The housing strategy includes mix of new building projects, financed on lending to its wholly owned company and acquiring completed homes. Most homes will operate on the market rent basis. Homes are located within the area and neighbouring districts.

PWLB will support this activity as it is a clear example of housing.

Example 10

A Council purchases land for an energy generation project. The Council made energy efficiency and sustainability a policy priority. The land will be purchased in a neighbouring authority for renewable energy project that includes a windfarm being built. Energy generated will be sold back to the national grid and this income will be used to cross subsidise the land purchase and other environmental projects the council wants to pursue.

PWLB will support this activity because it serves a clear policy purpose for the authority. It is not primarily to generate an income and is an example of service delivery.

Example 11

A Council purchases green bonds. These bonds invest in climate change projects which reduce carbon emissions, whilst these investments will not be in the district the council intends to offset these reductions against the council's carbon emissions to meet its target to become carbon neutral. These bonds generate an income to the Council.

PWLB will not support this activity as the bonds do not deliver any direct environmental improvement to the council because there is no new energy generation.

Example 12

A council jointly invests in hydrogen production for vehicles with a private company. The Council wishes to upgrade its vehicle stock to run on hydrogen. To ensure the right infrastructure is in place it makes an equity investment in a new company jointly with a private sector partner. This new company will build a hydrogen production facility which will provide fuel to the council and general public.

PWLB will support this sort of activity as any financial returns are incidental to the local authorities main aim of meeting climate objectives.