



Public Sector England Webinar – Borrowing by local authorities

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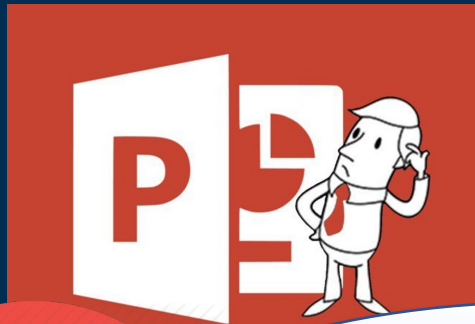
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CHAT

Agenda



BORROWING POWER



DEBT FOR YIELD



**PUBLIC WORKS LOAN
BOARD TERMS**

Borrowing Power

- Section 1 Local Government Act 2003

Local authority may borrow for any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs.



Control of borrowing

- Local authority must determine how much it can afford to borrow
- Borrowing must not exceed affordable borrowing limit
- Must have regard to guidance



Case Law

- *Hazell v Hammersmith and Fulham London Borough Council* [1991] 1 All ER 545
- Use of power in section 111 Local Government Act 1972
- “Functions” embraces all the duties and powers of a local authority
- Speculative transactions did not facilitate and were not conducive nor incidental to discharge of functions

Debt for yield

- Local authority must not borrow more than or in advance of needs purely in order to profit from investment of extra sums borrowed



Debt for yield - Examples

- Buying land or buildings to let at market rate
- Buying land or buildings which were previously operated on a commercial basis and continuing without modification
- Buying land or buildings other than housing which generate income and are intended to be held indefinitely



Public Works Loan Board Loans

- Circular 162: Lending Arrangements for PWLB Loans
- Revised terms addressed issue of debt for yield
- By submitting a loan application, local authority represents and warrants that it has power to enter into the terms of the loan and that no limit on its powers will be exceeded as a result of the borrowing



Public Works Loan Board Loans

- Application must be made on PWLB template
- Includes confirmation from Section 151 officer that local authority does not plan to buy investment assets primarily for yield in next three years



Public Works Loan Board Loans

- If HM Treasury has concern about continuing appropriateness of PWLB loan, it may:
 - Suspend lending by PWLB
 - Make lending conditional on borrower acting in accordance with HM Treasury's instructions
 - Require borrower to repay loan



Guidance

- Statutory Guidance on Local Government Investments
 - Local authority must not borrow more than or in advance of need purely for profit
 - Investment Strategy should explain local authority's policies in investing money borrowed, including management of risk
- PWLB Guidance for Applicants

Actions

- Review approach to development of capital plans
- Review approach to identifying funding
- Ensure decision making records purpose of borrowing
- Consider position of Section 151 Officer
- Consider how borrowing for individual requirements affects Council's plans



Any questions



Next Webinar

Property Law Update

Tuesday 14th September 2021 10:00am - 11:00am

This session will report on any relevant developments in property law.

Paul Hilsdon, Commercial Property



To book onto this webinar and to view the full 2021 training schedule follow the link on the chat function.

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