Report to:	**AUDIT PANEL**
Date:	15 March 2022
Reporting Officer:	Kathy Roe – Director of Finance Caroline Barlow – Assistant Director of Finance
Subject:	**CONSULTATIONS**
Report Summary:	This report provides members of the Audit Panel with details of: • proposed changes to regulations to better enforce the duty of local authorities to make prudent Minimum Revenue Provision each year; and • Emergency proposals for an update of the 2021/22 Code of Practice on Local Authority Accounting in the United Kingdom and the 2022/23 Code.
Recommendations:	The Panel is asked to note the potential implications of the proposed changes set out in these consultations, if the proposals are adopted.
Corporate Plan:	The Corporate Plan helps determine the priorities for Council spending, which will be reported using the policies and accounting requirements referred to in this report.
Policy Implications:	There are no wider policy implications arising from this report.
Financial Implications: **(Authorised by the statutory Section 151 Officer & Chief Finance Officer)**	The proposals for changes to regulations to better enforce the duty of local authorities to make prudent Minimum Revenue Provision each year may have revenue implications for the Council. It is not yet clear whether the changes would be applied retrospectively, but the changes may impact on existing shareholder loans with Manchester Airport Group. If changes to the regulations require retrospective application to existing loans, this would have a direct revenue impact of circa £270k per annum of additional costs, despite the fact that full repayment is anticipated. If the change only applies to future agreements, it would make similar arrangements less viable going forwards.
Legal Implications: **(Authorised by the Borough Solicitor)**	This report has been prepared to highlight the potential impact that changes to the Regulations and Code, which govern the council's accounting procedures may have on the council's budget position. Early planning in expectation of these changes is advisable as the council is required by law to have a robust and balanced budget each financial year and therefore any impact will have to be addressed appropriately.
Risk Management:	The accounting policies help to reduce the risk of error or misstatement within the Council's accounts by ensuring a clear framework for financial reporting. The Accounting Policies must be consistent with financial reporting regulations and statutory guidance.
Background Information:	The background papers relating to this report and any further information can be obtained from the report writer, Heather Green, Finance Business Partner Telephone:0161 342 2929 e-mail: heather.green@tameside.gov.uk

1 INTRODUCTION

1.1 There have been two recent consultations which could impact the Council's revenue budget and/or impact on the accounting treatment that is applied to transactions during the financial year. These two separate consultations relate to:

- proposed changes to regulations to better enforce the duty of local authorities to make prudent Minimum Revenue Provision each year; and
- Emergency proposals for an update of the 2021/22 Code of Practice on Local Authority Accounting in the United Kingdom and the 2022/23 Code.

1.2 This paper seeks to provide members of the Audit Panel with an update on the proposals set out in these consultations and the potential impact for Tameside.

2 CONSULTATION ON CHANGES TO THE MINIMUM REVENUE PROVISION GUIDANCE, DECEMBER 2021

Consultation Proposals

2.1 This consultation sought views on proposed changes to regulations intended to better enforce the duty of local authorities to make prudent Minimum Revenue Provision each year. Full details of the consultation can be found here Changes to the capital framework: Minimum Revenue Provision - GOV.UK (www.gov.uk)

2.2 Local authorities borrow and invest under the Prudential Framework (the Framework), which comprises legislation and 4 statutory codes that authorities must have regard to. Under this system, authorities have wide freedoms to borrow and invest without the need to seek the government's consent, provided that borrowing is affordable. The intent of the Framework is to make sure local decisions are prudent, affordable and sustainable.

2.3 Where authorities borrow to finance capital spend, they are required under regulations to set aside money each year from their revenue account. This is referred to as Minimum Revenue Provision (MRP) and is to make sure they can afford to repay the principal of their debt.

2.4 Local authorities have flexibility in how they calculate MRP, providing it is 'prudent'. Further guidance on how to calculate a prudent amount is given in the government's *Statutory guidance on Minimum Revenue Provision*, which authorities must have regard to. Notwithstanding these flexibilities, authorities must meet the statutory requirement that the charge is prudent and is made to revenue. Where the duty is not adequately met, this can result in authorities borrowing more than they could otherwise afford, and pushing liabilities and risk into the future.

2.5 The government is proposing to make changes to the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 to address the issue that some authorities are not adequately complying with the duty to make Minimum Revenue Provision. Changes are intended to make explicit that:

- Capital receipts may not be used in place of the revenue charge. The intent is to prevent authorities avoiding, in whole or part, a prudent charge to revenue. It is not the intention to prevent authorities using capital receipts to reduce their overall debt position, which may have the effect of reducing the MRP made with respect to the remaining debt balance.
- Prudent MRP must be determined with respect to the authority's total capital financing requirement. The intent is to stop the intentional exclusion of debt from the MRP determination because it relates to an investment asset or capital loan. Authorities should still be able to charge MRP over the period in which their capital expenditure provides benefits, and begin charging MRP in the year following capital expenditure, in accordance with proper accounting practices set out in the government's statutory guidance on Minimum Revenue Provision.

Tameside Response

2.6 The current MRP guidance includes wording which makes it clear that it is for the authority to determine an amount of MRP that it considers to be prudent. This proposed change would impact on the ability of the Council to set a policy that it considers prudent.

2.7 Existing guidance states that the underpinning principle of the local authority finance system is that all capital expenditure must be financed by capital receipts, capital grants (or other contributions) or eventually from revenue income. There may be short-term timing differences between capital expenditure and the receipts/grants that support this activity. For example, an authority may be required to spend money on assets that are to be funded by S.106 receipts. This proposed change to the regulation may have unintended consequences on the ability to delay MRP until the receipts are received and used to pay down debt created to fulfil the planning obligation.

2.8 In the existing guidance, the Secretary of State accepts that whilst they consider that the methods of making prudent provision include the options set out in the guidance, they also say that this does not rule out or otherwise preclude a local authority from using an alternative method should it decide that is more appropriate (and prudent).

2.9 Making an authority follow a regulation that removes some of the flexibility used as part of a prudent MRP policy is not consistent with the views provided by the Secretary of State in the current MRP Guidance and appears inconsistent with the view provided in the consultation that "The government wants authorities to still be able to exercise judgement in determining a prudent amount and does not want to move back to a prescriptive method."

2.10 Under the proposed change there are some circumstances where preventing the use of capital receipts to be used in place of a revenue charge will create a double count and an over provision of resources, which could be viewed as imprudent and this may have an impact on the Council's ability to deliver services.

2.11 The government also needs to clarify how the proposed change will be implemented in relation to the current MRP policies that have already been adopted. Under existing regulations, the use of capital receipts is restricted and can only be used for the items listed within Regulation 23 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003:

- to meet any capital expenditure
- to repay the principal of any amount borrowed
- to pay a premium charged in relation to any amount borrowed
- to meet any liability in respect of credit arrangements, other than any liability which, in accordance with proper practices, must be charged to a revenue account.

The intention of the proposed changes appears to restrict the use of capital receipts and may conflict with Regulation 23.

2.12 It is also not clear how the changes will be implemented, if it would be applied to loans already in place or only applied to new loans provided once the revised regulations are adopted. Tameside does not have any capital loans that are for purely investment purposes, but does have some that have been used to support the local economy (Loans to Manchester Airport Group). If changes are applied to these existing loans then this would have a direct revenue impact of circa £270k per annum of additional MRP costs, despite the fact that full repayment is anticipated. Even if the change only applies to future agreements, it would make these schemes much less viable going forwards. Therefore, it seems appropriate to have some flexibility to allow alternative prudent approaches that will ensure revenue and capital resource mismatching does not create additional unintended revenue budget pressures or prevent schemes meeting local or national policy objectives from going ahead.

3 EMERGENCY PROPOSALS FOR AN UPDATE OF THE 2021/22 CODE OF PRACTICE ON LOCAL AUTHORITY ACCOUNTING IN THE UNITED KINGDOM AND THE 2022/23 CODE, JANUARY 2022

Consultation Proposals

3.1 CIPFA LASAAC has issued an exceptional consultation on time limited changes to the code to help alleviate delays to the publication of audited financial statements. Only 9% of local authority accounts in England met the audit publication deadline of 30 September 2021, and only 40% had been signed off at the end of January 2022. Full details of the consultation can be found here Emergency update of the 2021/22 and 2022/23 codes | CIPFA.

3.2 In December 2021, the Department of Levelling-up Housing and Communities asked CIPFA LASAAC to consider ways in which the code may help to alleviate delays to the publication of audited financial statements. CIPFA LASAAC considered this request and has issued this exceptional consultation, which explores two possible changes that might be made as an update to the 2021/22 code and to the agreed position in the 2022/23 code. After considering a wide range of options CIPFA LASAAC decided to explore two approaches:

- an adaptation to the code to allow local authorities to pause professional valuations for operational property, plant and equipment for a period of up to two years (though the initial proposal is for the 2021/22 financial year); this approach also explores the use of an index to be used to increase or reduce that valuation
- deferring the implementation of IFRS 16 Leases for a further year and reversing the planned changes to the 2022/23 code to implement that standard.

3.3 CIPFA have set out their views on the proposed changes in their invitation to comment document and provided some detail on how their proposed changes with impact on the preparation of financial statements. It should be notes that the changes are based on requests from the Department of Levelling Up Housing and Communities to address the crisis with the audit publication deadlines in England. It is made clear that there are no similar issues in Northern Ireland, Scotland or Wales.

Tameside Response – Valuation changes

3.3 The proposal to pause professional valuations may support some authorities but doesn't consider the fact that work on the 2021/22 valuations may already be in progress or completed. Tameside Council has a two year contract with external valuers for the 2020/21 and 2021/22 accounts, with work in progress on 2021/22 valuations. If the emergency proposals are not adopted, the valuation approach will be required and therefore it is not prudent to pause existing valuation work at this stage.

3.4 The move to an indexation approach may require additional workload that has not been planned for. Additional valuation work may also be required to 'catch-up' after the temporary two year pause. For that reason, it is not clear whether this proposed change will bring any substantial benefits to the Council. If such a significant change to the current Code is going to be implemented so close to the financial year end, it should only be made if there is clear evidence that it would deliver the desired outcome. It is not clear that this proposal will deliver the desired improvement in audit timeliness.

Tameside Response – IFRS16

3.5 The original deadline for the implementation of IFRS16 has already been postponed three times by CIPFA and replaced with the current 1 April 2022 implementation date. The NHS is proceeding with the adoption of IFRS16 in 2022/23 and the DfE are in the process of getting new school leasing rules signed off by Ministers. If IFRS16 implementation in Local Government is delayed to 2023/24, the public sector could be inconsistent in its approach to adoption, leading to inconsistencies in Whole of Government Accounts (WGA), and the potential for additional work or disclosure for WGA.

3.6 The Council has already undertaken preparatory work for IFRS16 in 2020 and is in the process of refreshing this work in preparation for a 1 April 2022 implementation date. Deferral of implementation to 1 April 2023 would require further work during 2022/23 to refresh preparatory work yet again. For that reason, it is not clear whether this proposed change will bring any substantial benefits to the Council.

4 RECOMMENDATIONS

4.1 As set out on the front of the report.