CIPFA The Chartered Institute of Public Finance & Accountancy

Report

Paper 08 11 20

Board	CIPFA/LASAAC
Venue	Virtual
Date	3 November 2020
Author	Alan Bermingham, CIPFA
Subject	DSG and Statutory Override

Purpose

This paper updates the members of CIPFA/LASAAC on the current status of discussions with MHCLG and their progression of a statutory override in relation to DSG balances.

1 Background

1.1 At the end of September, CIPFA Secretariat provided the Local Authority Accounting Panel (LAAP) with a report for information (*appendix 1*) covering the discussions with MHCLG and CIPFA on DSG deficits to date.

1.2 This report noted concern raised by the audit community regarding the treatment of deficits in 2019/20 and; the intention of MHCLG to address this through a statutory override.

1.3 A current (22 October) draft of the proposed override is attached in *appendix 2* for members information.

2 Points relevant to progress of the override

2.1 Our current understanding on progress from MHCLG is as follows:

- The laying date for this SI is currently proposed to be the 5 November and to come into effect 21 days later.
- From feedback from auditors and discussions the Departments legal advisors, to mitigate the identified risks the SI will need to say (in summary): DSG deficits are not proper charge to a revenue account; deficits must be recorded in a separate dedicated account.
- MHCLG expect the effect to be as with other overrides – the accounts will be produced under IFRS (the Code); there will be an accounting adjustment due to the override; the adjustment will be to move DSG deficit balances to an unusable reserve on a time limited basis.
- The SI will first apply to financial statements for the reporting period starting 1 April 2020.

3 Expected outcomes for the Override

3.1 All DSG deficits are carried over from 2019-20 into 2020-21, and any subsequent deficit positions for the term of the override, to be moved to an unusable reserve through a statutory accounting adjustment for all reporting periods while the Statutory Instrument (SI) is in effect.

3.2 The unusable reserve will record deficits until such time as the override expires (following 2022/23). Any surplus positions will not be transferred to the unusable reserve while the SI is in effect but will continue to be held ring-fenced as they currently are.

3.3 At the end of the effective period of the SI, the deficit position will offset by whatever surplus has accumulated. Government will review the position as at the end of the current SI period to determine the need for any further extension of the SI.

3.4 The SI does not in any way restrict the DfE regulations that permit LAs to use general funds for school budget expenditure, provided the SofS has given the required approval. It would be expected that if authorities chose to use general funds in this way then the deficit position, howsoever reduced by the appropriate application of general funds, would then be subject to this SI.

4. Further input from CIPFA and LAAP

4.1 In discussions with MHCLG we have agreed that if guidance is to be issued, it will be jointly issued by CIPFA and MHCLG. Panel members would have a role in approval and review of that guidance for CIPFA.

4.2 Any responses to queries received to date on this topic have been fed back to MHCLG in meetings, however their intent is to progress the statutory override as in appendix 2.

Actions:

- **No direct decisions or action are required at this point, however if guidance is progressed CIPFA secretariat would look for input from the relevant panel/board.**

APPENDIX 1:

Report for Information

Board	Local Authority Accounting Panel
Date	29 September 2020
Author	Alan Bermingham, CIPFA
Subject	DSG and Statutory Override

Purpose

This paper is the inform panel members of discussions between CIPFA, MHCLG and DfE regarding putting in place a statutory override for 2019/20 on the accounting for DSG balances in reserves. Panel members will recall the discussions during formulating the LAAP year-end bulletin, in which we identified a treatment of holding earmarked DSG reserve balances within usable reserves. As a result of concerns from the audit community on whether this will provide enough assurance for a clean audit opinion for 2019/20, MHCLG have decided to act and put in place a statutory override to provide additional assurance.

1 Content of Paper

1.1 This paper provides the latest draft of potential wording for the Statutory Override and provides information on dates that this would be applicable to.

2 DRAFT Override Wording

Below is the wording we have to date. The red wording reflects input from DfE back to MHCLG.

2.1 The SI will need to set out that:

Grant paid to local authorities under the Dedicated Schools Grant, made under section 14 of the Education Act 2002 and expenditure on the Schools Budget, which is defined in School and Early Years Finance (England) (No 2) Regulations 2018): It may be that what you need to define is the expenditure on the Schools Budget: the DSG is just a grant that funds it, or some of it. But it may also be useful to refer explicitly to the DSG. The current regulations are the School and Early Years Finance (England) Regulations 2020 (SI 2020/83). The Schools Budget is defined in Regulation 6 and Schedule 2; the new ringfencing rules are in Regulation 8(7) and 8(8) and paragraph 81 of Schedule 2.

a) *Must not be charged to a revenue account; and*
b) *Must be charged to an account established solely for the purpose of recognising the accumulated surplus or deficit. I wonder if it is rather an account for recording expenditure on the Schools Budget, including any accumulated surplus or deficit.*

And I think we need to say somewhere that expenditure includes any expenditure against the deficit relating to schools budget from prior reporting periods. Yes – that is in Regulation 8(7) and paragraph 81 of Schedule 2 in the DfE regulations.

And it will also need to recognise that DSG expenditure can be a charge to the GF if authorised by SofS, under DfE's regulation changes. I think it is rather that general funds can be used to meet a deficit in the Schools Budget if that is authorised by SofS. This is regulation 8(8) – it works by disapplying the requirement that all deficits in the Schools Budget must be carried forward to be met from the Schools Budget in future years.

2.2 CIPFA has made some initial feedback to MHCLG reflecting:

1. That there may be a little confusion for accounting in the way a) and b) above are worded. Stating in a) that grant must not be charged to a revenue account may lead to some thinking it goes straight to reserves, bypassing the normal accounting through services within the Comprehensive Income and Expenditure Statement (CIES). In short, it should make it clearer that DSG is accounted for in the normal way (through the CIES) and the net position, surplus or deficit in year, is moved in the movement in reserves statement to a reserve established for the purpose and;

2. there will be debate around the nature of that reserve, therefore the override (or guidance issued) should make it clear where that reserve sits, usable or unusable. In the Code, unusable reserves are pretty much for timing differences only in order to reconcile back to what is charged to council taxpayers. Therefore, this reserve does not fit as being classified as unusable. This is also a debate we had during the formulation of the CIPFA year-end bulletin covering DSG. As it arises from providing normal services, and at some point needs funding, it should sit in usable reserves but be earmarked and/or termed ringfenced (as can only be funded from DSG). That would ensure consistent treatment across councils. It would also fit with previous guidance from the year-end bulletin for 2019/20.

2.3 Applicable Dates

MHCLG hope to put into triage for a November laying in parliament. Auditors have so far said that it doesn't need to come into effect for 2019-20 and can first apply to 2020-21 accounts and this still mitigates the risk for 2019-20 accounts. This is good news, as trying to put it in place for 2019-20 would have raised a series of other issues to be addressed.

DfE's view is that the override should be time limited and it should run to 2023-24. MHCLG are looking to support that view.

Actions:

- **This report is for information.**
- **CIPFA Secretariat will take any further views from the panel and feed those directly to MHCLG. Views can be sent to alan.bermingham@cipfa.org**

APPENDIX 2:

STATUTORY INSTRUMENTS

2020 No. [draft of 21 October]

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2020

Made - - - -	***
Laid before Parliament	***
Coming into force - -	***

The Secretary of State, in exercise of the powers conferred by sections 21(1) and 123(1) and (2) of the Local Government Act 2003(**1**), makes the following Regulations.

Citation and commencement

—(1) These Regulations may be cited as the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2020.

These Regulations come into force on 29th November 2020.

Amendment of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

After regulation 30K of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(**2**) insert —

"**Deficit relating to schools budget**

2.30L—(1) This regulation applies in relation to accounts prepared for the financial years beginning on 1st April 2020, 1st April 2021 and 1st April 2022.

1.(2) In this regulation—

"Dedicated Schools Grant" means the grant of that name paid to a local authority by the Secretary of State under section 14(1) of the Education Act 2002(**3**);

"schools budget" has the meaning given to in section 45A(2) of the School Standards and Framework Act 1998(**4**);

"sixth form grant" means a grant of that name paid to a local authority by the Secretary of State under section 14 of the Education Act 2002 in respect of sixth form pupils.

(1) 2003 c. 26.
(2) S.I. 2003/3146. There are amending instruments but none is relevant.
(3) 2002 c. 32.
(4) 1998 c. 31; section 45A(2) was inserted by section 41(1) of the Education Act 2002 and amended by paragraph 3(4)(a) and (b) of Schedule 16 to the Education Act 2005, and S.I. 2010/1158.

2.(3) Where a local authority has a deficit in respect of its schools budget for a financial year beginning on 1st April 2020, 1st April 2021 or 1st April 2022, the authority –

3.(a)must not charge to a revenue account an amount in respect of that deficit; and

4.(b) must charge the amount of the deficit, calculated in accordance with paragraph (4) or (5), to an account established, charged and used solely for the purpose of recognising deficits in respect of its schools budget.

5.(4) A local authority has a deficit in respect of its schools budget for the financial year beginning on 1st April 2020 if—

$$(A + B - C) > (D + E + F)$$

where—

A is the amount of the authority's expenditure incurred on the schools budget for the financial year beginning on 1st April 2020, recognised in accordance with proper practices(**5**);

B is the amount of the authority's accumulated outstanding deficit, if any, in respect of the schools budget, recognised in the authority's accounts relating to the financial year beginning on 1st April 2019, in accordance with proper practices;

C is the amount, if any, that the authority transfers from its general fund(**6**) in respect of its school budget expenditure in the financial year beginning on 1st April 2020;

D is the amount of the authority's Dedicated Schools Grant in the financial year beginning on 1st April 2020;

E is the amount of the authority's accumulated surplus, if any, in respect of the schools budget, recognised in the authority's accounts relating to the financial year beginning on 1st April 2019, in accordance with proper practices;

F is the amount of the authority's sixth form grant in the financial year beginning on 1st April 2020.

6.(5) An authority has a deficit in respect of its school budget for a financial year beginning on 1st April 2021 or 1st April 2022 if—

$$(G - H) > (I + J + K)$$

where—

G is the amount of the authority's expenditure incurred on the schools budget for the financial year to which the accounts relate, recognised in accordance with proper practices;

H is the amount, if any, that the authority transfers from its general fund in respect of its school budget expenditure in the financial year to which the accounts relate.

I is the amount of the authority's Dedicated Schools Grant in the financial year to which the accounts relate;

(5) See section 21(2) of the Local Government Act 2003 for the definition of 'proper practices'.

(6) See section 91 of the Local Government Finance Act 1988 c.41 for the definition of 'general fund'.

J is the amount of the authority’s accumulated surplus, if any, in respect of the schools budget, carried forward from the preceding financial year, recognised in accordance with proper practices;

K is the amount of the authority’s sixth form grant in the financial year to which the accounts relate.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Name

Parliamentary Under Secretary of State

Date

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (“the 2003 Regulations”) make provision about the accounting practices to be followed by local authorities, in particular with respect to the charging of expenditure to revenue accounts.

These Regulations insert a new regulation 30L into the 2003 Regulations. New regulation 30L provides that where a local authority has a deficit on its school budget, the authority must not charge any such deficit to its revenue account. Instead, new regulation 30L provides that local authorities must charge any such deficit to a separate account, established and usable solely for that purpose.

New regulation 30L will apply to accounts prepared for the financial years beginning in 2020, 2021 and 2022, and establishes formulas for calculating whether a local authority has a schools budget deficit in relation to each such financial year.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.