EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (FUNDS) (ENGLAND) (AMENDMENT) (CORONAVIRUS) REGULATIONS 2021

2021 No. 1343

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Local Authorities (Funds) (England) (Amendment) (Coronavirus) Regulations 2021 ("this instrument") amends provisions of the Local Authorities (Funds) (England) Regulations 1992 (S.I. 1992/2428) ("the Funds Regulations"). This instrument makes provision in relation to three new local authorities which assumed responsibility for local tax collection fund deficits accrued by their predecessor authorities in 2020-21 following the economic impact of the coronavirus pandemic. Specifically, it enables North Northamptonshire Council, West Northamptonshire Council and the West Yorkshire Combined Authority to repay those deficits over the financial years 2022-23 and 2023-24 in the same way that their predecessor authorities would have done, rather than repay them over one year.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Billing authorities are required by section 89 of the Local Government Finance Act 1988 to establish and maintain a collection fund for the purpose of collecting council tax and non-domestic rates. Billing authorities include shire district councils, London Boroughs, unitary authorities, the Common Council of the City of London and the Council of the Isles of Scilly.

6.2 Part 1 of Schedule 2 to the Funds Regulations requires a billing authority to estimate whether there this is a surplus or deficit on its collection fund in respect of council tax.

6.3 Any surplus or deficit on a billing authority's collection fund in respect of council tax is to be apportioned between that billing authority and any relevant major precepting

authorities in accordance with the formulas contained in Part 2 of Schedule 2 to the Funds Regulations. Major precepting authorities include county councils, police and crime commissioners, fire and rescue authorities, mayoral combined authorities and the Greater London Authority.

6.4 In response to anticipated coronavirus-related shortfalls in billing authorities' council tax income during the financial year 2020/21, the Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020 (S.I. 2020/1202) ("the 2020 Regulations") amended the Funds Regulations to require a billing authority to spread and apportion any deficit accrued in that financial year (the exceptional balance), equally over the following three financial years, 2021-22, 22-23 and 23-24.

6.5 This instrument amends the Funds Regulations to make provision for the apportionment of a billing authority's exceptional balance for the financial years 2022-23 and 23-24 in respect of North Northamptonshire Council, West Northamptonshire Council and the West Yorkshire Combined Authority.

7. Policy background

What is being done and why?

7.1 On 2 July 2020 the Secretary of State set out a package of measures so that local government could continue to fulfil its essential role in the national response to the coronavirus pandemic.[1] These measures included an announcement that "the repayment of collection fund deficits arising in 2020-21, will be spread over the next three years rather than the usual period of a year, giving councils breathing space in setting budgets for next year."

7.2 Billing authorities are responsible for the administration of council tax including collecting the tax, paying it into a collection fund and then making payments to themselves and major precepting authorities to fund local services.

7.3 In January each year the billing authority must estimate the surplus or deficit on the collection fund which is expected at the end of the financial year, taking account of council tax charged in both the current and previous years. It must then notify the major precepting authorities in its area of their respective shares.

7.4 Each authority is required to incorporate its share into its budget and council tax setting for the following financial year. Where the collection fund is in deficit, billing and major precepting authorities experience a resource pressure and are required to discharge their liability by making payments into the collection fund. Conversely where there is a surplus in the collection fund, billing and major precepting authorities experience an uplift in their income and will receive the additional revenue by instalments.

7.5 The 2020 Regulations amended the Funds Regulations to allow local authorities to discharge their liability for collection fund deficits accrued during 2020-21 ("the exceptional balance") over the three years 2021-22, 2022-23 and 2023-24 in three equal tranches.

7.6 From 1 April 2021 North Northamptonshire Council and West Northamptonshire Council assumed the functions, assets and liabilities of Northamptonshire County Council and the district councils in their area following unitarisation ("the predecessor

[1] https://questions-statements.parliament.uk/written-statements/detail/2020-07-02/hcws333

councils"). From 10 May 2021 the new West Yorkshire Combined Authority Mayor took office and assumed the functions, assets and liabilities of the former West Yorkshire Police and Crime Commissioner ("the predecessor PCC").

7.7 Amendments are required to the Funds Regulations to ensure that the new authorities can be apportioned and spread repayment of their share of the exceptional balance in the same way that the predecessor councils and PCC would have done.

7.8 In the case of North Northamptonshire Council and West Northamptonshire Council, this instrument specifies amounts of council tax that they must use when making the calculations prescribed in the Funds Regulations in respect of financial years 2022-23 and 2023-24. These amounts reflect the aggregate council tax requirements of the predecessor councils in their area in 2020-21 (amount "O"), and – separately – the aggregate council tax requirements of major precepting authorities in their area (amount "P").

7.9 In the case of the West Yorkshire Combined Authority Mayor, this instrument specifies that the 2020-21 council tax charge giving rise to the predecessor PCC's share of the exceptional balance is to be treated as if it was charged by the Mayor in respect of his PCC functions.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This instrument makes minor technical changes to the provisions of the Funds Regulations. The Department does not intend to consolidate these Regulations.

10. Consultation outcome

10.1 These are technical changes and have been developed in consultation with the affected authorities and the Chartered Institute of Public Finance and Accountancy. All were content with the instrument's detailed provisions and impact upon the mechanics of financial management.

11. Guidance

11.1 The Department will write to affected local authorities setting out the requirements of this instrument.

12. Impact

12.1 As this instrument makes technical changes to the timescales over which the council tax collection fund deficits of three local authorities must be repaid, and does not affect the bills paid by taxpayers, there is no impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is minimal. Billing authorities will use the amounts specified in the instrument as part of routine annual calculations. The instrument is fiscally neutral and spreads a liability over multiple years, thereby giving local authorities more flexibility in managing their finances.

12.3 A separate Impact Assessment has not been prepared for this instrument because it amends existing local tax regimes. Publication of a full impact assessment is not necessary for such legislation.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Government keeps the operation of the council tax system and the underpinning legislation under regular review.

15. Contact

15.1 Nick Littlewood at the Ministry of Housing, Communities and Local Government, Telephone: 0303 44 42096 or email: nick.littlewood@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Chris Megainey, Deputy Director for Local Taxation at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kemi Badenoch, Minister of State, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.