



## Cabinet 10 September 2013

### Policy for Granting Loans to External Organisations (Sep13/09)

#### 1. Summary and reasons for recommendations

- 1.1 At present there are no set criteria or policy for the granting of loans to outside bodies as each proposal is judged on its own merits which includes consideration of:
  - (a) the purpose of the loan and its contribution to the achievement of the Council's corporate objectives, particularly regarding economic growth;
  - (b) the financial stability and viability of the organisation to which the loan is made; and
  - (c) the level of security offered.
- 1.2 On 24 April 2013, the Overview and Scrutiny Committee considered a report (Report D340 refers) which was the final report on the work undertaken by the Task and Finish Group set up by the Committee, to formulate a policy to be used for assessing future loan requests from external organisations.
- 1.3 The Overview and Scrutiny Committee resolved at that meeting that the draft Policy for Granting Loans to External Organisations, as set out in Appendix 1 to Report D340, should be subject to external validation, following which it would be amended if necessary and presented to Cabinet and Council for adoption.
- 1.4 An external review of the draft Policy has now been undertaken and observations and suggested amendments are available for Cabinet to consider at Appendix 2. Also included in Appendix 2 are six recommendations all of which are incorporated into the proposed Policy for Granting Loans to External Organisations, attached at Appendix 1.

## **2. Recommendations**

2.1 It is **RECOMMENDED** that:

- (1) Cabinet considers the results of the external review at Appendix 2 to Report E102; and
- (2) subject to the approval of full Council, the Policy for Granting Loans to External Organisations, as set out in Appendix 1 to Report E102, be adopted.

## **Contact details**

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## **3. Corporate priorities**

3.1 The recommendation meets the following, as contained within the Corporate Plan:

- (a) Corporate priority 3: '*Working together for an efficient Council*'.

## **4. Key issues**

### **Work of the Overview and Scrutiny Committee**

4.1 On 24 April 2013, the Overview and Scrutiny Committee considered a report (Report D340 refers) which was the final report on the work undertaken by the Task and Finish Group set up by the Committee, to formulate a policy to be used for assessing future loan requests from external organisations.

4.2 The Head of Resources and Performance was in attendance at that meeting and further suggested that, given the significance of the proposed new policy, the Council should obtain some external validation prior to its approval, particularly on:

- (a) state aid implications;
- (b) regulation implications, i.e. financial services; and
- (c) treasury management implications.

4.3 The Overview and Scrutiny Committee resolved that the draft Policy for Granting Loans to External Organisations, as set out in Appendix 1 to Report D340, should be subject to external validation, following which it would be amended if necessary and presented to Cabinet and Council for adoption.

## **External validation**

- 4.4 An external review of the draft Policy has now been undertaken and the observations and suggested amendments are available for Cabinet to consider at Appendix 2. Included in Appendix 2 are five recommendations and are incorporated into the proposed Policy for Granting Loans to External Organisations attached at Appendix 1.
- 4.5 The external validation has been completed by John Layton, a chartered accountant and a chartered public finance accountant, who has a long career providing financial advice to the public, private and voluntary sectors. Formerly, Mr Layton was a Senior Executive of a Government taskforce working in the Office of the Deputy Prime Minister having been National Public Sector technical director of an international accountancy firm.

## **5. Other options considered**

- 5.1 None associated with this report.

## **6. Community impact**

- 6.1 None associated with this report.

## **8. Financial and resource implications** *(including asset management implications)*

- 8.1 None associated with this report.

## **9. Risk/opportunity assessment** *(potential hazards or opportunities affecting corporate, service or project objectives)*

- 9.1 The external review of the draft Policy includes five recommendations to Cabinet for consideration, all of which support the Council in the adoption of a suitable risk-based policy for Members to make reference to on consideration of any future loan applications.

## **10. Legal and policy implications**

- 10.1 Local Government Act 1972 (Sc 111) - power to lend money  
Local Government Act 2000 (Sc 2) – well being powers  
Localism Act 2011 – general power of competence

## **11. Wards affected**

- 11.1 All Wards.

## **12. Background papers**

- 12.1 Report D340 – Overview and Scrutiny Committee report 24 April 2013: Report of the Loans to External Organisations Task and Finish Group  
Report E4 – Cabinet report 22 May 2013: Report of the Overview and Scrutiny Committee: 24 April 2013

## **13. Documents attached**

Appendix 1 – Policy for Granting Loans to External Organisations  
Appendix 2 - Summary of comments received from External Validation

# St Edmundsbury Borough Council

## Policy for Granting Loans to External Organisations

### Contents

- 1. Introduction**
- 2. Considering a loan request**
- 3. Loan Agreement**
- 4. Approval Process**

### **1. Introduction**

- 1.1 Loans to external organisations may be provided under the Council's general power of competence, as contained within Section 1 of the Localism Act 2011, which allows Councils to do "anything that individuals generally may do." This general power replaces the well being powers set out in the Local Government Act 2000 which allowed local authorities to "do anything which they consider is likely to achieve the promotion or improvement of the economic, social or environmental well being of their area".
- 1.2 The Council does not routinely provide loans to external organisations, and requests for loan finance will only be considered in the context of the Council's wider strategic aims and objectives. As such each proposal for loan finance needs to be judged on its own merit, which includes consideration of:
  - a) The purpose of the loan and its contribution to the achievement of the Council's strategic objectives.
  - b) The financial stability and viability of the organisation to which the loan is made.
  - c) The nature / level of security an organisation can provide to support the loan amount.
- 1.3 Loans made to external organisations under this policy do not form part of the Council's investment or treasury management strategy. Decisions regarding the granting of loans are based on a wider concept of the strategic benefit of each proposal rather than the narrower treasury management investment criteria which is driven by consideration of the security and liquidity of funds as well as financial yield. As such, decisions on the different levels of risk and financial return involved in each loan agreement may vary depending on the

nature / purpose of the loan and its wider strategic impact. Factors that may affect the level of risk involved in a particular proposal include:

- a) Whether the Council already has an interest in the asset / project (e.g. owns the land / buildings to which the loan finance relates)
- b) Whether loans are offered under Government sponsored schemes (e.g. loans financed from the Government's Growth Area Initiative funding); and
- c) The type of organisation that the funding is provided to (e.g. a private company, a not for profit organisation or other public body). It should be noted that this policy does not apply to loans to private individuals.

1.4 This policy applies to all new loan approvals (including top up loans to existing loan agreements) with effect from its date of approval (30 September 2013).

## **2. Considering a loan proposal**

2.1 When considering proposals for loan finance, the following factors should to be taken into account:

- a) Applications will only be considered to support projects / initiatives within the St Edmundsbury Borough Council area.
- b) There should be an assessment of the degree of correlation of the loan purpose with the Council's corporate priorities.
- c) The Council should also consider whether it is appropriate to analyse total support given to an organisation or a single project. For example, the Council may determine that it is inappropriate to lend monies where a grant from the Council has been agreed for the same project.
- d) The relevant organisation requesting a loan should be able to demonstrate that it has sought funding from other sources and that loans from such sources are either not available or the terms are materially unfavourable or unaffordable and therefore detrimental to the project / initiative.
- e) The request for a loan should be in relation to capital expenditure projects (i.e. the Council will not consider applications for loans to support revenue expenditure).
- f) A detailed financial appraisal will be required to be carried out by the Council on receipt of any loan request. This appraisal will also consider the financial standing of the relevant organisation and will provide due diligence over the

project's / initiative's business case. The following information will be required to be made available to the Council alongside the request for a loan:

- i. Copy of the latest approved annual accounts (audited where applicable), plus the previous year's financial annual accounts including, where relevant, an assessment of company structures and governance arrangement.
  - ii. The Business Case for the project / initiative including project / initiative risks and deliverability.
  - iii. Information on proposed security to support the loan, including evidence of security of tenure of land / buildings and nature of other calls upon the assets (e.g. other secured bank loans).
  - iv. Adequacy of the relevant organisation's insurance arrangements, including insurance of assets offered as security.
  - v. Details of how the project/initiative will be funded including details of all other loans / grants / support sought or given (including reasons for any refusal of funding and / or unacceptable terms offered).
- g) An assessment of each loan application should be carried out against the accounting code of practice criteria of a soft loan i.e. at lower than market rates loan, including consideration of any financial cost to the Council and consideration against item h) below on state aid implications.
- h) An assessment of any state aid implications will be required to be carried out by the Council on receipt of any loan request. If a loan application includes the features of state aid then the loan is prohibited unless it is covered by an exemption under state aid rules.
- i) An assessment of the Council's overall cash flow position, spending requirements and overall prudential controls will be carried out by the Council on receipt of any loan application. The Council must ensure that the issuing of any loan does not have any negative impact on its own cash flow and spending requirements.

### **3. Loan Agreement**

- 3.1 The granting of a loan will be subject to a written contractual loan agreement in a form approved by the Council's Head of Legal and Democratic Services and entered into by the relevant organisation and the Council. The loan agreement will include details of the agreed terms upon which the loan is granted, including:
- a) Conditions of loan (e.g. delivery of the Project / Initiative).
  - b) Loan duration and repayment details, including repayment of principal, interest and other costs (as appropriate).
  - c) Loan security, including fixed and floating legal charges.
  - d) Insurance requirements.
  - e) Recovery and enforcement arrangements in case of default of loan terms and conditions.
- 3.2 The period of the loan should be consistent with the loan purpose, i.e. the asset life but with a maximum of 20 years.
- 3.3 Where appropriate, interest should be charged on loans and apply until the principal of the loan is fully discharged. The rate of interest to be charged should reflect the nature of the Project / Initiative for which loan finance is sought (including its contribution to the Council's strategic objectives), the outcome of the business case (including ability of the Project / Initiative to generate financial return), the prevailing market rates (including rates of return achieved on Council investments and treasury management activities). The Council may offer either a fixed or variable rate facility, as determined by the Council having taken into account the advice of the Council's Head of Resources and Performance.
- 3.4 Where possible, loans should be secured via a fixed or floating charge over assets. Ideally loans should be secured via a fixed charge on substantive assets such as freehold land and buildings, but where this is not possible, a floating charge relating to a group of assets may also be considered.

### **4. Approval Process**

- 4.1 Requests for loan finance up to £25,000 should be subject to approval by Cabinet, with loans greater than £25,000 requiring approval by full Council. The report accompanying each application should include an officer recommendation in respect of acceptance or rejection of the loan application. Any resolution for the approval of a loan should also include an acknowledgement of any exceptional risks (for example, approval in spite of inadequate security) and also include clear written reasons for any approval given in spite of such risks associated with the proposed loan.

- 4.2 Requests from relevant organisations to materially change the terms of Loan Agreements (including applications for top up loans or repayment holidays) should also be considered by Cabinet / full Council (i.e. amendments to loans up to £25,000 to be approved by Cabinet, and amendments to loans greater than £25,000 to be approved by full Council).

**Policy Approval: 30 September 2013**

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Services\Committee\Reports\Cabinet\2013\13.09.10\E102 Report on the Loans to Organisations  
Policy Appendix 1.doc



Summary of comments received from External Validation

Policy section/ consideration	Observations and/or suggested amendments	Amendments to Draft Policy from report D340
<p>Treasury Management practices and links with the prudential code</p>	<p>Loans for strategic policy purposes are usually regarded as outside the scope of investments whose management needs to comply with the CIPFA Code of Practice on Treasury Management in the Public Services and the Prudential Code.</p> <p>However, where loans are given for capital purposes they come within the scope of the prudential controls established by the Local Government Act 2003:</p> <ul style="list-style-type: none"> <li>• the giving of a loan, grant or other financial assistance to any person, whether for use by that person or by a third party, towards expenditure which would, if incurred by the authority, be capital expenditure</li> </ul> <p>This provision within the Act was made because the giving of loans will result in an increased borrowing requirement for a local authority, even though strictly in accounting terms it is not "expenditure".</p> <p>The provision therefore catches transactions that involve the advance of cash and deems them to be expenditure requiring capital financing. In this way the resources available for other capital investment are reduced, until such time as the advance is repaid.</p> <p>Capital receipts may be set aside to cover a capital loan. If receipts are not available, then the making of the loan will generate a revenue cost for the Council through a minimum revenue provision, typically 4% of the loan value.</p>	<p><b>Recommendation 1</b> The policy is undated to include a section on cash flow, spending requirement and overall prudential controls considerations for each loan application.</p>
<p>Use of a scoring matrix</p>	<p>Scoring matrices can be helpful and can provide a good guide to the decision an organisation is likely to take based on cold assessment of data before it.</p> <p>However, it is recommended that when considering loan applications that such a</p>	<p><b>Recommendation 2</b> That the scoring matrix is removed from the draft loan policy.</p> <p>The loan policy already recognises the <u>approval</u></p>

	<p>scoring matrix would be misleading for both applicants and the Council and therefore should not be used, particularly in its current form, as it has not reached a suitable development allowing the scoring to be used in confidence.</p> <p>In particular, the use of point scoring is misleading and might lead to inappropriate analysis as there is no guidance as to how this point scoring system should be applied, nor is there any reference to what the basis is for including such a point scoring system i.e. does below 20 points mean the loan application shouldn't be accepted?</p>	<p>process through Cabinet and Full Council for all loans applications over £25,000. The removal of the matrix is therefore not considered to be detrimental to the approval process.</p>
<p>Role of the Performance and Audit Scrutiny Committee</p>	<p>The process seems rather long winded given that approval for loans over £25k is already the responsibility of Full Council. It may therefore be more efficient to reduce the length of the committee approvals by requiring only Cabinet and Full Council to approve loans.</p>	<p><b>Recommendation 3</b> The role of the Performance and Audit Scrutiny Committee is removed.</p>
<p>State Aid implications</p>	<p>This depends on the scale of any proposed activity and links to the state aid limits to any one undertaking.</p> <p>State Aid is something that the Council must consider as part of each loan application.</p>	<p><b>Recommendation 4</b> The policy is updated to include a section on state aid consideration on each loan application.</p>
<p>Financial Services Authority – is registration required</p>	<p>Neither of the Authorities requires registration if activity is restricted to the making of loans.</p> <p>Generally it is not thought that the Council needs to contact the regulation authorities. However, if the Council is making a large loan then an enquiry at that time may be prudent.</p>	<p><b>Recommendation 5</b> No amendment required</p>
<p>General policy comments</p>	<p>The policy note looks comprehensive and is clear on approval process through Cabinet and Full Council for all loan applications over £25,000.</p> <p>Comments on how to use a scoring matrix is provided above.</p> <p>Need to consider if loans are soft loans, i.e. whether they are lower than market rates as there will be a financial cost to the Council on its accounting treatment</p>	<p><b>Recommendation 6</b> Including a reference to soft loan considerations</p>

