

Forest Heath District Council

Policy for Granting Loans to External Organisations

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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 (XXX).

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 Forest Heath District 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

APPENDIX 1

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.
 - f) Provision for recovery of any fees incurred for items including, but not limited to, validation of financials, legal advice on loan security arrangements etc.'
- 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: XXX