Appendix

Third Party Loans – draft policy

Introduction

Government changes in the way councils are funded has prompted local authorities to look at more commercial and innovative ways of growing income streams from sources other than Government grants and council tax in order to support the delivery of front-line services.

Whilst the Council should not wish to become a commercial lender in the market place it can use its ability to borrow, at relatively economic rates, to support the delivery of improved outcomes for the residents of Cambridgeshire. At the same time this will facilitate the creation of a relatively modest income stream to support the Council's overall financial resilience.

The intention of this policy is therefore to establish a framework within which the Council may consider advancing loans to third party, not for profit, organisations.

Nature of Organisations Considered

The Council will consider the provision of a loan facility to organisations that fulfil the following criteria:

- Not For Profit Organisations where the loan required will be used to fund infrastructure to support the delivery of services to the residents of Cambridgeshire and;
- Organisations that provide services that align to the Council's core objectives and priorities (including subsidiary companies and joint ventures)

Both of the above criteria are required to be fulfilled in order for the Council to consider advancing public funds.

Governance Arrangements

All proposals will be considered by the Commercial Board (a Board of Officers from across the Council considered to provide an overview and challenge on all of the Council's commercial activity).

Loans of less than £250,000 that fulfil the policy framework are delegated to the Council's Chief Finance Officer in consultation with the Chair of General Purposes Committee.

Loans in excess of £250,000 or loans that are outside of the framework parameters require General Purpose Committee (GPC) approval.

Limits

No specific limits are proposed but all loans in excess of £250,000 will require GPC approval.

Given the level of administration that will be required to manage the loan agreement over the life of the loan, no requests for loans of less than £10,000 will be considered.

Business Case Review

Any application for loan finance must be accompanied by a robust business case. Due-diligence checks will be undertaken to test the underlying assumptions applied. Specialist support may be required to carry out these assessments.

State Aid and Interest Rates

Under EU law, State Aid rules must be taken into account whenever public money is given to an organisation that undertakes any commercial operation. State Aid is defined as an advantage in any form whatsoever conferred on a selective basis to undertakings by public authorities. Subsidies granted to individuals or general measures open to all enterprises are not covered by the State Aid prohibition.

The general parameters of the scheme will not permit loans to be made where the funding could be used in the delivery of commercial activities. However, not for profit organisations often undertake commercial activities in order to support the delivery of non-commercial activities. State aid can be avoided by using the Market Economy Operator (MEO) principles. If the state is acting in a way that a rational private investor would, for example in providing loans or capital on terms that would be acceptable to a genuine private investor who is motivated by return and not policy objectives, then it is not providing State Aid. This is because the beneficiary is not considered to be obtaining an advantage from the State but on the same terms that it could have obtained on the open market.

The actual interest rate charged on loans of this nature will be set with reference to the minimum permitted within State Aid rules at the time of fund advance and the Council's cost of borrowing plus an appropriate credit risk margin, whichever is higher.

If there is any doubt as to whether State Aid may be an issue, Legal advice must be sought.

Loan Framework

All loans must be secured against an asset or guaranteed by a public sector organisation with tax raising powers.

The maximum loan to value will not exceed 80% unless fully guaranteed by a public sector body.

The maximum duration of the loan will be 30 years but the loan period must not exceed the useful life of the asset.

An independent valuation of the asset upon which the loan is secured will be undertaken by the Council.

A robust business case must be developed that demonstrates that the loan repayments are affordable.

Given the administrative costs incurred in both establishing and managing loans of this nature an administration/arrangement fee will be applied to each loan made. The following arrangement fees will be applied:

Minimum Loan Value	Maximum Loan Value	Arrangement Fee

£10,000	£99,000	£1,000
£100,000	£249,999	1% of loan
£250,000		£2,500

The on-going value of the asset(s) that the loan has been secured against will be valued on a 5 year basis. A charge to revenue may be required if the equity value falls below the debt outstanding or if it becomes clear that the borrowing organisation is unable to service the debt.

Guarantees will be called upon if the lending organisation falls into arrears of more than 12 months.

Exemptions

Exemptions to this policy may be considered but any exemption will need to be approved by GPC.