

**FROM:** Audit and Risk Manager  
**TO:** Head of Finance  
**C.C.:** Chief Executive  
Grant and Loans Manager  
Portfolio Holder (Cllr Chilvers)

**SUBJECT:** Loans to External Organisations  
**DATE:** 28 March 2024

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## 1 Introduction

- 1.1 In accordance with the Audit Plan for 2023/24, an examination of the above subject area has recently been completed by Ian Davy, Principal Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

## 2 Background

- 2.1 The Council began to provide loans to external organisations in December 2017. Since then, a number of the loans have been paid off with others being provided to different organisations.
- 2.2 There are currently loans in place to nine different organisations with others being proposed. Those in relation to Milverton Homes and Crewe Lane LLP comprise a number of different loans under umbrella agreements.
- 2.3 At the time of the last audit, the total sum for the approved loans was just over £8 million. However, agreements are now in place for in excess of £87 million.

## 3 Objectives of the Audit and Coverage of Risks

- 3.1 The management and financial controls in place have been assessed to provide assurance that the risks are being managed effectively. It should be noted that the risks stated in the report do not represent audit findings in themselves, but rather express the potential for a particular risk to occur. The findings detailed in each section following the stated risk confirm whether the risk is being controlled appropriately or whether there have been issues identified that need to be addressed.
- 3.2 In terms of scope, the audit covered the following risks:
1. Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.

2. The Council is exposed to borrowing risks that would not be faced if the 'facility' / individual loan was not provided.
3. Monies issued and received are not accounted for appropriately.
4. The Council is deemed to be operating outside of its powers under the Local Government Act 2003.
5. Loans provided under Government-sponsored schemes do not meet the criteria.
6. The Council is deemed to be giving an unfair advantage to certain companies.
7. Loans are used for activities deemed to be undesirable or controversial in nature.
8. Inducements offered to officers to provide loans that do not fall within the criteria set out in the Council's loans policy.
9. The loans policy is not updated when changes are necessary (e.g. as a result of the Council's objectives changing / prevailing financial conditions etc.).

3.3 These were identified during discussion between the Principal Internal Auditor and the key contacts for the audit, with those flagged as Dept RR above being included within the departmental risk register for Finance.

3.4 The work in this area helps the Council to achieve Priority 1 (Delivering valued, sustainable services) of the new Corporate Strategy Warwick District 2030, specifically in relation to the need to ensure that the Council's finances remain on a firm and sustainable footing, being delivered by continuing to invest across the district and increasing income generating opportunities.

## 4 Findings

### 4.1 Recommendations from Previous Reports

4.1.1 The current position in respect of the recommendations from the previous audit, reported in June 2019, was reviewed. The current position is as follows:

	<b>Recommendation</b>	<b>Management Response</b>	<b>Current Status</b>
1	To prevent loans being allocated to selected applicants, an application process should be formed. This will allow a fair and equal opportunity for a wider audience to apply.	<b>Original:</b> We do not consider that a Loans Policy and application process should be developed. The Localism Act gives a broad remit for Councils to use what powers (tools) they consider necessary to deliver a specific objective.	A policy was adopted. However, it was not clear whether a formal application form was ever produced and there was no evidence of a formal application for any of the loans that had been provided since the previous audit.
2	The Council should consider establishing a formal policy for providing loans to external organisations. This will help to ensure	A loan may be the right solution for a specific case but we do not believe that in effect "a loan application scheme" should be established. We accept that	(see 4.2.1 below)

	Recommendation	Management Response	Current Status
	approvals are fair and a good investment for the Council.	a checklist should be established so that there is a consistency around process and procedure. <b>Update:</b> It was subsequently agreed, following input from Members, that a policy and application process would be put in place.	
3	Changes made to Warwick District Council properties, using loan funds, should be reported to the Insurance and Risk Officer.	Agreed.	None of the loans provided since the last audit have resulted in the change to an existing Council property.

## 4.2 Financial Risks

### 4.2.1 **Potential Risk: Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.**

The Council Loans Policy that is in place sets out the need for a business case to be supplied alongside the application form, highlighting that this should be completed on the Council's standard business plan template.

The Grant and Loans Manager (GLM) maintains network folders containing documentation relevant to the loans and a copy of the business plan template was located, although the template could not be located on either the Council's website or intranet pages.

#### **Advisory**

**Consideration should be given to publishing the business plan template in an accessible location so that those applying to borrow money from the Council are able to identify the format that should be used for their business plan.**

Documentation held in relation to the current loans was reviewed to ascertain whether application forms had been completed and business plans had been submitted.

As suggested at 4.1.1 above, no application forms could be completed (although five of the loans predated the policy and the need for an application form). Business cases or similar documentation were found to be in place in each case, although some were not held in the central documentation records held by the

GLM with the reports to Members referencing the fact that they had been seen and approved.

### **Recommendation**

**A standard application form should be drawn up for loans to be provided and should be completed for all future loans.**

Testing was also undertaken to ascertain whether credit checks had been performed on the companies that the loans were being offered to. Whilst the Head of Finance (HoF) suggested that the Council would use the Credit Safe product to perform credit checks, an issue over document retention was again highlighted, with there only being two references found to credit checks having been performed.

### **Recommendation**

**Copies of the credit checks performed should be retained to support the loans being provided.**

Further testing was undertaken on the loans to ensure that there was a form of security obtained over the loan, that repayment schedules had been set up and that invoices were being raised and paid for each of the loans. These tests proved generally satisfactory.

The only issue that was noted was in regard to the loan in respect of the Sherbourne MRF. This loan is not yet due to be repaid, so there is no current need for a detailed repayment schedule. However, when enquiries were made of the GLM regarding this loan, he had not been made aware that it had been set up and did not hold any of the documentation.

### **Recommendation**

**It should be ensured that the Grant and Loans Manager is made aware of all loans being set up and is provided with all relevant documentation so that they can manage the loans appropriately.**

#### **4.2.2 Potential Risk: The Council is exposed to borrowing risks that would not be faced if the 'facility' / individual loan was not provided.**

There was no initial 'decision' to offer a loan facility, with individual circumstances being identified where provision of loans helped to provide solutions to issues affecting the local community.

Reports to Members requesting that the loans are approved include details of the risks as appropriate, although some are more generic than the risks in relation to the individual loans (e.g. risks relating to the St Mary's Land project for the loans to Racing Club Warwick and Warwick Corps of Drums that were in place at the time of the previous audit).

Six of the loans were financed internally from Reserves. The other three were 'back-to-back' loans with PWLB financing. Where External financing is required,

PWLB loans have been seen as the most appropriate source although this is reviewed as appropriate.

The reports to Members regarding the loans generally set out the reasoning behind the interest rates being charged although the two in relation to St Mary's Lands were not specified in the reports. Others just highlight that the rates need to be competitive to ensure compliance with State Aid / Subsidy Control.

The HoF highlighted that a formula is now in place following advice from the Council's Treasury Advisors (Link) which will be used going forwards.

#### 4.2.3 **Potential Risk: Monies issued and received are not accounted for appropriately.**

Separate codes are set up on Ci Anywhere for each loan provided, with difference codes for repayments of interest and the principal.

Upon review of the payments schedules and the invoices raised, it was noted that the principal repayment code had been entered incorrectly on the payment schedule for the loan in respect of Newbold Comyn Arms and, as a result, the invoices were being raised against the wrong code.

The error had obviously been identified previously as the income for 2022/23 had been journalled to the correct code at the end of the financial year. However, the working papers were not updated to reflect the amendment, so the issue was repeated for 2023/24.

#### **Recommendation**

**The payment schedule for the Newbold Comyn Arms loan should be amended to ensure that future invoices are raised against the correct code and that the income received to date is journalled to the correct code.**

#### 4.3 **Legal and Regulatory Risks**

##### 4.3.1 **Potential Risk: The Council is deemed to be operating outside of its powers under the Local Government Act 2003.**

The Loans Policy in place sets out in the introduction that Section 12 of the Local Government Act 2003 gives local authorities certain powers to invest. This is supplemented by Section 1 of the Localism Act which gives local authorities a general power of competence to do "anything that individuals generally may do". Thus, under this provision, local authorities can loan to organisations for legitimate purposes.

Reference to the legal powers being used to offer the loans was only referenced in the reports to Members for four of the nine current loans.

## **Advisory**

**Consideration should be given to including reference to the legal powers being used to offer the loans in the reports to Members where approval for the provision of the loans is being sought.**

### **4.3.2 Potential Risk: Loans provided under Government-sponsored schemes do not meet the criteria.**

The HoF advised that there are no current loans in place where Government funding has been used.

## **4.4 Reputational Risks**

### **4.4.1 Potential Risk: The Council is deemed to be giving an unfair advantage to certain companies.**

The policy sets out the process for considering a loan proposal and details the factors that will be taken into account when considering the application.

It also highlights that each proposal will be judged on its own merits and advises that the loans must be in relation to capital expenditure projects and the Council will not, therefore, provide loans to support revenue expenditure.

The HoF advised that the interest rates to be charged was an internal decision, with legal and financial advice being taken where felt necessary to ensure that State Aid / Subsidy Control rules were going to be adhered to.

As highlighted above, interest rates offered in the future (including future tranches of the loan to Milverton Homes) will be based on a formula included within the report from Link, thus providing a framework with greater transparency.

There is specific reference on the Council's website regarding one loan where State Aid exemptions were applied with three of the other loans falling under the de minimis levels that apply for State Aid regulations.

The reports in relation to the other loans generally make reference to the need to ensure that the rates are set at appropriate market rates to ensure that they are compliant with the regulations.

### **4.4.2 Potential Risk: Loans are used for activities deemed to be undesirable or controversial in nature.**

Upon review of the documentation held and the reports to Members, it was considered that all loans were for appropriate purposes.

There were two slight deviations from what is in the policy, with the loan in respect of the Newbold Comyn Arms appearing to have been made to the individuals rather than the business, although this was prior to the policy being in place, and the loan to Coventry and Warwickshire Reinvestment Trust is not specifically for them to undertake capital works, although the onward lending is

to other businesses within the Warwick District area with this funding being provided for capital works.

#### 4.5 **Fraud Risks**

##### 4.5.1 **Potential Risk: Inducements offered to officers to provide loans that do not fall within the criteria set out in the Council's loans policy.**

Upon review, loans had generally been made following approval by Executive / Cabinet, although one of the earlier of the current loans was approved after the Chief Executive had already approved the loan under his emergency powers.

The reports are usually backed up by supporting documentation that explains why the loans are required (e.g. business cases etc.) although in some cases, these are only referenced as opposed to being provided as part of the pack of documents for the Committee.

#### 4.6 **Other Risks**

##### 4.6.1 **Potential Risk: The loans policy is not updated when changes are necessary (e.g. as a result of the Council's objectives changing / prevailing financial conditions etc.).**

As part of the scrutiny process, the Finance and Audit Scrutiny Committee (as in place at the time) had suggested amendments to the draft policy that was being presented to Executive for approval.

The minutes of the Executive meeting highlighted that three amendments had been suggested by Finance and Audit Scrutiny Committee and, upon review, it was confirmed that these amendments had been actioned.

The current, published, version of the policy is that which was presented to Council in February 2020 and does not include any version control or review frequency requirements.

The policy contains a number of minor (grammatical) errors and still refers to Executive as opposed to Council.

#### **Recommendation**

**The Loans Policy should be reviewed and amended as appropriate, with the inclusion of a version control 'matrix' and a required review frequency being stated.**

As the policy has not been amended since it was approved, there is no reflection of the objectives set out in the new Corporate Strategy Warwick District 2030. However, the policy does not refer to any specific objectives and uses general wording such as 'requests for loan finance will only be considered in the context of the Council's wider commercial and strategic and objectives together with its corporate policies', 'each proposal for loan finance needs to be judged on its own merit, which includes consideration of the purpose of the loan and its contribution to the achievement of the Council's strategic objectives', and 'there

will be an assessment of the degree of correlation of the loan purpose with the Council's corporate priorities'.

Similarly, as the policy has not been amended, there has not been any consideration of and advice received from Link.

## 5 **Summary and Conclusions**

5.1 Section 3.2 sets out the risks that are under review as part of this audit. The review highlighted weaknesses against the following risks:

- Risk 1 – Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.
- Risk 3 – Monies issued and received are not accounted for appropriately.
- Risk 9 – The loans policy is not updated when changes are necessary (e.g. as a result of the Council's objectives changing / prevailing financial conditions etc.).

5.2 Further 'issues' were also identified where advisory notes have been reported. In these instances, no formal recommendations are thought to be warranted, as there are no significant risks attached to the actions not being taken.

5.3 In overall terms, therefore, we must give a MODERATE degree of assurance that the systems and controls in place in respect of the Loans to External Organisations are appropriate and are working effectively to help mitigate and control the identified risks.

5.4 The assurance bands are shown below:

<b>Level of Assurance</b>	<b>Definition</b>
Substantial	There is a sound system of control in place and compliance with the key controls.
Moderate	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited	The system of control is generally weak and there is non-compliance with controls that do exist.

## 6 **Management Action**

6.1 The recommendation arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr  
Audit and Risk Manager



## Action Plan

## Internal Audit of Loans to External Organisations – March 2024

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.2.1 (a)	Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.	A standard application form should be drawn up for loans to be provided and should be completed for all future loans.	Low	Head of Finance / Grant and Loans Manager	An application form will be drawn up to be used for future loan applications.	October 2024
4.2.1 (b)	Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.	Copies of the credit checks performed should be retained to support the loans being provided.	Low	Grant and Loans Manager	The Grant and Loans Manager to request copies of credit reports for future applications to be retained alongside other loan specific documentation.	June 2024

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.2.1 (c)	Organisations are unable to repay the loans or do not make payments in line with agreed terms, leading to the loss of interest due to the Council and the Council having to repay the borrowed funds themselves.	It should be ensured that the Grant and Loans Manager is made aware of all loans being set up and is provided with all relevant documentation so that he can manage the loans appropriately.	Medium	Head of Finance / Grant and Loans Manager	The Head of Finance to provide copies of approved reports along with relevant supporting documentation so that they can be managed.	June 2024
4.2.3	Monies issued and received are not accounted for appropriately.	The payment schedule for the Newbold Comyn Arms loan should be amended to ensure that future invoices are raised against the correct code and that the income received to date is journalled to the correct code.	Low	Grant and Loans Manager	The repayment schedule has now been amended to show the correct code, the invoice for 2024/25 has been coded to the correct code and a journal has been processed to correct the 2023/24 miscoding.	Completed
4.6.1	The loans policy is not updated when changes are necessary (e.g. as a result of the Council's objectives changing / prevailing financial conditions etc.).	The Loans Policy should be reviewed and amended as appropriate, with the inclusion of a version control 'matrix' and a required review frequency being stated.	Medium	Head of Finance	Loans policy to be reviewed alongside the Treasury Management Strategy on an annual basis.	March 2025

\* The ratings refer to how the recommendation affects the overall risk and are defined as follows:

High: Issue of significant importance requiring urgent attention.  
Medium: Issue of moderate importance requiring prompt attention.  
Low: Issue of minor importance requiring attention.