

Council Loans Policy

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1. Introduction

- 1.1 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.
- 1.2 The Council does not provide loans routinely to external organisations, and requests for loan finance will only be considered in the context of the Council's wider commercial and, 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 extent to which loans will, at least in the medium term, benefit the local economy
 - c. the financial stability and viability of the organisation to which the loan is made
 - d. the nature / level of security an organisation can provide to support the loan amount
 - e. the Council's commercial objectives.
- 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 commercial and 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 (for example, owns the land / buildings to which the loan finance relates)
 - b. Whether loans are offered under Government-sponsored schemes (for example, loans financed from the Regional Growth Fund); and

- c. The type of organisation that the funding is provided to (for example, 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 variations to existing loan agreements) with effect from its date of approval.
- 2. Considering a loan proposal**
- 2.1 Applications for loans should be completed by the applicant on the Council's Loans Application form.
- 2.2 When considering proposals for loan finance, the following factors should be taken into account:
 - a. Applications will only be considered to support projects / initiatives within the Warwick District Council area.
 - b. There will be an assessment of the degree of correlation of the loan purpose with the Council's corporate priorities.
 - c. The Council will 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 or where they have received any type of grant or loan from any state body.
 - d. The relevant organisation requesting a loan must be able to demonstrate that it has sought funding from other sources and that loans from such sources are not available.
 - e. The request for a loan must be in relation to capital expenditure projects (that is, the Council will not consider applications for loans to support revenue expenditure).
 - f. A financial appraisal will be required to be carried out by the Council on receipt of any loan request that meets the specified threshold for evaluating applications. This appraisal will also consider the financial standing of the relevant organisation (especially their ability to repay the prospective loan) and will provide due diligence over the business case of the project / initiative. 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 two years' financial annual accounts including, where relevant, an assessment of company structures and governance arrangement. Additional Management Accounts and supporting information may be required.
 - ii. Copy of the last six months' bank statements.

- iii. The business case for the project / initiative including project / initiative risks and deliverability. This should be completed on the Council's standard business plan template.
 - iv. 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 (for example, other secured bank loans).
 - v. Adequacy of the relevant organisation's insurance arrangements, including insurance of assets offered as security.
 - vi. 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).
 - vii. Confirmation from the potential lending sources (e.g. bank) that it will not provide the finance.
- g. The Council may seek third party advice and support in assessing an application and, where this is the case, the applicant's permission to share information will be sought.
- 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 applicant'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. The loan will need to be able to be afforded within the Council's Capital funding and Medium Term Financial Strategy.
- j. An interest rate will be applied on the loan to ensure an acceptable return on capital employed. An arrangement fee determined by the Council's Section 151 Officer will also be payable dependent on the complexity of the application.
- k. Applications should not be considered from new businesses unless the circumstances are exceptional (e.g. a joint venture project formed for the purposes of a particular project).
- l. All loan applications will ultimately be determined by the Council's Executive Committee. However, depending on the funding of the loan, Council authority may be required.

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 Section 151 Officer and Council lawyers, 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
 - 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 and guarantees
 - 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, and so on.

- 3.2 The period of the loan should be consistent with the loan purpose and other factors relevant to repayment term, e.g. the asset life subject to a maximum period of 20 years.

- 3.3 Interest will 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 and the outcome of the business case (including ability of the project / initiative to generate financial return). Consideration of the loan interest rate will take into account, and not necessarily limited to, the following factors:-

- Prevailing and forecast market interest rates
- The Council's cost of funding (including interest and Minimum Revenue Provision)
- State Aid requirements
- Principal repayment provisions
- The financial strength of the organisation
- The collateral offered as loan security
- A suitable contribution to cover the perceived risk of the loan
- A contribution to the Council's on-going costs of administering the loan

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 Section 151 Officer.

- 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 All loan applications will be subject to approval by Executive Committee or Council. The report accompanying each application will 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 change materially the terms of Loan Agreements (including applications for top up loans or repayment holidays) should be considered by the Section 151 Officer in consultation with the Portfolio Holder for Finance, taking advice from lawyers as necessary.