

Draft Action Plan in Response to the Report in The Public Interest

A) All recommendations are accepted

B) Recommendations R1 to R10 are recommendations from the *The Report in the Public Interest*

<p>Recommendation 1 - Closing Cabinet Actions</p> <p>For the purposes of transparency and openness further approval should be sought from Cabinet for any additional monies, or any variations in the loan value that are subsequently agreed in respect of any loan decisions.</p> <p>In respect of concerns raised by Members, good governance practice would determine that these should be recorded as issues to be addressed by management. The outcome of these investigations should be supplied to Members at the following meeting to provide assurance that the concerns have been suitably addressed.</p>
<p>Portfolio Holder accountability:</p>

Action	Deadline	Accountability
R1.1 Review the Council’s policy in respect of loan agreements and associated amendments to loan agreements		
R1.2 Review the policy and process in respect of Member concerns raised at Cabinet meetings and associated feedback to Cabinet and Members raising concerns		
R1.3 Review the function and effectiveness of Overview and Scrutiny		
R1.4 A process will be documented to detail what should be included in reports to Cabinet with respect to loan decisions. This will include the considerations to be made where a request for additional monies over and above the original amount are to be agreed.		
R1.5 Full training on Cabinet decisions will be given to Councillors on the information they should expect to be presented to ensure openness and transparency when asked to make decisions on variations to loan values.		
R1.6 Concerns raised as part of the Cabinet decision process will be recorded and addressed by management. Follow up and actions on the issues raised will be supplied to members once resolved.		

Recommendation 2 – Completion of Delegated Conditions

As part of good governance practice, the Cabinet should ensure that where conditions are placed on those with delegated powers, that there is a reporting mechanism in place whereby the results of the work undertaken by these individuals, including any results of further investigations, or decisions taken, is summarised in a report back to Cabinet to provide assurance that their requirements have been discharged.

Portfolio Holder accountability:

Action	Deadline	Accountability
R2.1 Review constitution and delegations (Legal and Financial)		
R2.2 As part of the process to be documented for Cabinet members in respect of decision making, the delegated powers will be recorded per decision and will be updated to show what work has been undertaken, the actual results against expected results and the reason for any deviation from the agreed actions.		

Recommendation 3 – Provision of Business Cases for External Loans

Where Cabinet are required to make any future loan decisions, they should do so following receipt of a detailed business plan, which is accompanied by full due diligence, to support the decision-making process.

This should include a clear and independent assessment of whether the work to be undertaken will cost the amount to be loaned. Additionally, any profiles of future income projections should also have been challenged and agreed, prior to being presented to Members

Portfolio Holder accountability:

Action	Deadline	Accountability
R3.1 Review the NBC Governance Action Plan arising from PWC (internal Audit 2016) recommendations.		
R3.2 Review external loan policy/process to ensure it is fully documented to reflect the necessary use of external resources to ensure full disclosure following due diligence work, based on more recent experiences. This links to 1.1 above		

Recommendation 4 – Depth of Due Diligence

Reports to Cabinet for key decisions, should clearly include the results of the due diligence that has been undertaken by management, prior to the decision being undertaken.

No activities of these significance should be delivered by senior officers in the name of Cabinet or Council, without the results of these activities being clearly reported to members.

Where any future complex loan agreement includes the potential to receive monies back from say development or other activities associated with the loan agreement, this should be clearly reported to Cabinet or Council, to ensure that there is full disclosure of the arrangements to be put in place, thereby ensuring that the decision taken by Members is based on all available evidence concerning public funds.

Any changes in the value or use of public funds should be reported back to Cabinet for transparency purposes.

Portfolio Holder accountability:

Action	Deadline	Accountability
4.1 Review Cabinet Report process		
4.2 Review external loan policy/process to ensure the documented process includes detail on what information must be presented to Cabinet to ensure full transparency of all activity surrounding the loan and will include due diligence reports, and any recommendations made by external legal or professional advisors. This is linked to 1.1 and 3 above		

Recommendation 5 – Evidencing Decisions Taken

Where legal or other professional advice is received, it would be both prudent and transparent for senior managers to produce a report containing the recommendations made by these advisers and how each recommendation has been assessed by the Council and how it has, or has not impacted on the final decision made. This report should sit above any supporting evidence via emails or minutes of meetings / conference calls.

Portfolio Holder accountability:

Action	Deadline	Accountability
5.1 Review Cabinet Report and decision making process.		
5.2 Review of Finance Business Case requirements to ensure this information must be included with the Cabinet reports as supporting information where decisions are required.		

Recommendation 6 – Reporting the Outcomes of Due Diligence

The Council should prepare a summary report which concludes on the due diligence review undertaken into the finances, structure and ownership of any organisation it is intending on supporting with loan finance. The purpose of the report would be to discharge the duties of those given delegated authority and for transparency purposes the report should be presented to Cabinet.

This should support the report prepared on any legal advice / recommendations that have been received.

Portfolio Holder accountability:

Action	Deadline	Accountability
6.1 Review Cabinet Report and decision making process		
6.2 Review external loan policy/process Business Case requirements to ensure this information regarding the structure and ownership of any organisation must be included with the Cabinet reports as supporting information where decisions are required.		

Recommendation 7 – Timeliness of Due Diligence Checks

As part of entering into any key contract or business loan, the Council should undertake a thorough assessment of the personal / business interests of those charged with running the organisations, as well as completing due diligence on the finances of the organisation as a whole (see recommendation 6 above). These checks should be completed prior to any decision making and the results should be incorporated within the Council's business case.

Where there are additional third parties, such as developers or contactors which will be employed by the loan recipient, the Council should include either its own due diligence on these additional organisations, or request the outcome of the loan recipient's due diligence, alongside the evidence of competitive tender to support a transparent approach to appointment.

Portfolio Holder accountability:

Action	Deadline	Accountability
7.1 Review Cabinet Report and decision making process		
7.2 Review external loan policy/process as above		
7.3 A comprehensive process will be developed detailing what due diligence should include and the level of information in relation to personal/business interests and also those of third parties. This information will be included in the business case presented to Cabinet in the first instance to assist the decision-making process for Councillors.		

Recommendation 8 – Pressures within the sign off process

The Council should ensure that officers are aware that if new information comes to light before or after a Member decision, that it may be appropriate to pause a process in order to seek further guidance.

Portfolio Holder accountability:

Action	Deadline	Accountability
8.1 Review of Officer / Member Protocol		
8.2 Review Constitution and Cabinet Report process		
8.3 Additional training will be provided to officers to ensure they understand how to process additional information and ensure they know how to pause processes if required.		

Recommendation 9 – Overall Governance Process and link to Constitution

The Council should review the procedures and guidance available to officers when considering the information to be provided to Cabinet and/or Committees in respect of loans made to third parties.

This should include a clear stage by stage process, whereby evidence / reports should be prepared, reviewed and formally approved, and prior to moving to the next stage.

Additionally, once the loan has been awarded there should be a transparent process for monitoring the recipient organisation and obtaining evidence to support that the loan is being used for the appropriate purpose. Periodic reports should be made to Council / Cabinet to summarise progress by the recipient. If at any point the recipient is not able to demonstrate progress, then no further payments should be made.

Portfolio Holder accountability:

Action	Deadline	Accountability
9.1 Review of Officer / Member Protocol to ensure roles and expectations are clear		
9.2 Review external loan policy/process, to ensure the process is documented for both Officers and Councillors in respect of information presented to Cabinet for any decisions. The process will include monitoring how any monies that have been loaned are used and compared against the original reason for the loan through reference to the business case. Any deviation from the agreed use will be reported through to management and Cabinet.		
9.3 Review the role of Overview and Scrutiny		

Recommendation 10 – Sale of Land for Development

Any future land sales should, other than in exceptional circumstances and where the law allows, be undertaken via means of a competitive process, in order that prospective parties are able to tender for the purchase, by submitting their plans for development. Each bid should be appropriately appraised, and consideration should be given to any relationships either with Council Members or related parties as part of the awarding process.

The ultimate decision on who to award the sale to, should in a matter of this significance be undertaken by Cabinet following receipt of a formal tender evaluation process, which includes the results of the due diligence undertaken against each bid. When considering best value for the land, the Council may (in limited circumstances and subject to the particular facts) be able to take into account ethical considerations.

Portfolio Holder accountability:

Action	Deadline	Accountability
10.1 Review Constitution – note that there is no legal obligation to tender land disposals under section 123 Local Government Act 1972. However, in such cases a professionally qualified valuer (or more than one) should provide a valuation report. The Council is unable to take into consideration ethical or moral considerations in determining what is best consideration (<i>Regina v Somerset County Council Ex Parte Fewings and Others: CA 22 Mar 1995 R v Lancashire CC ex p Telegraph Service Stations, The Times, June 25 1988</i>)		
10.2 Review of Asset Disposals strategy, policies and processes		
10.3 A process for the sale of land for development will be developed for Officers to follow. The process for Cabinet reports for Councillors could, where appropriate, include a section for the sale of land for development and will include the steps to consider following the evaluation process.		