

**COUNCIL OVERVIEW BOARD  
SUPPLEMENTARY AGENDA**

**Date:** Wednesday 6 July 2016  
**Time:** 10.00am  
**Place:** Ashcombe Suite, County Hall, Penrhyn Road, Kingston-Upon-Thames,  
Surrey, KT1 2DN

**Contact:** Bryan Searle, Room 122, County Hall  
**Telephone:** 020 8541 9019.  
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[For queries on the content of the agenda and requests for copies of related documents]

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*The following papers have been updated for dispatch with the agenda. Please bring them with you to the meeting:*

**SUPPLEMENTARY AGENDA**

- 2 MINUTES OF THE PREVIOUS MEETING: 1 JUNE 2016** (Pages 1 - 10)  
To agree the minutes as a true record of the meeting.
- 6 RECOMMENDATIONS TRACKER AND FORWARD WORK PROGRAMME** (Pages 11 - 14)  
The Committee is asked to monitor progress on the implementation of recommendations from previous meetings, and to review its Forward Work Programme.
- 9 MUNICIPAL BONDS AGENCY** (Pages 15 - 26)  
**Purpose of the report:** The Council Overview Board is asked to review the report and consider whether it wishes to make any recommendations to Cabinet.

**David McNulty**  
Chief Executive  
Thursday 29 June 2016.

**If you would like a copy of this supplementary agenda or the attached papers in another format, eg large print or braille, or another language please either call our Contact Centre on 08456 009 009, write to Surrey County Council at County Hall, Penrhyn Road, Kingston upon Thames, Surrey KT1 2DN, Minicom 020 8541 0698, fax 020 8541 9004, or email Error! Unknown document property name.. This meeting will be held in public. If you would like to attend and you have any special requirements, please contact [bryans@surreycc.gov.uk](mailto:bryans@surreycc.gov.uk).**

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**MINUTES** of the meeting of the **COUNCIL OVERVIEW BOARD** held at 10.00 am on 1 June 2016 at Ashcombe Suite, County Hall, Kingston upon Thames, Surrey KT1 2DN.

These minutes are subject to confirmation by the Committee at its meeting on Wednesday, 6 July 2016.

**Elected Members:**

- \* Mr Steve Cosser
- \* Mr Eber A Kington (Vice-Chairman)
- \* Mr Mark Brett-Warburton
- Mr Bill Chapman
- \* Mr Stephen Cooksey
- \* Mr Bob Gardner
- \* Mr Michael Gosling
- \* Dr Zully Grant-Duff
- \* Mr David Harmer
- \* Mr Nick Harrison
- Mr David Ivison
- \* Mr Colin Kemp
- \* Mrs Denise Saliagopoulos
- \* Mrs Hazel Watson
- \* Mr Keith Witham
- \* Mr Ben Carasco

**Ex officio Members:**

Mrs Sally Ann B Marks, Chairman of the County Council  
Mr Nick Skellett CBE, Vice-Chairman of the County Council

**Co-opted Members:**

**Substitute Members:**

Mr Bill Chapman  
Mr David Ivison

**In attendance**

Mr David Hodge, Leader of the Council  
Mr Peter Martin, Deputy Leader and Cabinet Member for Economic Prosperity

**33/16 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]**

Apologies were received from Bill Chapman and David Ivison. Ben Carasco attended as a substitute for Bill Chapman.

It was noted that the membership list on the front page of the agenda was incorrect, and should show Steve Cosser as the Chairman of the Board and

Denise Saliagopoulos as a member. David Munro was no longer a member of the Board.

**34/16 MINUTES OF THE PREVIOUS MEETING: 13 APRIL 2016 [Item 2]**

The Minutes were approved as an accurate record of the meeting.

**35/16 DECLARATIONS OF INTEREST [Item 3]**

In relation to the Shareholder Board Annual Report (Item 9), Colin Kemp declared that he was a member of the Cabinet at Woking Borough Council and was therefore involved in decisions relating to Bandstand Square Developments, one of the companies overseen by the Shareholder Board.

**36/16 QUESTIONS AND PETITIONS [Item 4]**

There were no questions or petitions.

**37/16 RESPONSES FROM THE CABINET TO ISSUES REFERRED BY THE SCRUTINY BOARD [Item 5]**

No issues were referred by the Board at its last meeting, so there were no responses to report.

**38/16 RECOMMENDATIONS TRACKER AND FORWARD WORK PROGRAMME [Item 6]**

**Key points raised in the discussion:**

**Recommendations Tracker**

- It was noted that the actions from 1 October and 5 November 2015 relating to the Carbon & Energy Policy and the HR&OD Service had been completed and information would be circulated as part of the next Council Overview Board Bulletin.

**Forward Work Programme**

- It was agreed that the Municipal Bond Agency item would be considered at the meeting in July 2017 even if it was not felt necessary to call in the Cabinet decision, as this was an issue of interest to Members.
- The Chairman would consider the addition of an item on the Council's Asset Management Strategy to the Board's forward work plan.
- It was agreed that the Board would add an item on consultations to its September meeting.
- The Chairman would report back to the Board on the proposed next steps in relation to the Transformation Sub-Group.

## **39/16 RESIDENT EXPERIENCE BOARD TASK GROUP SCOPING REPORT [Item 7]**

### **Declarations of interests:**

None.

### **Key points raised during the discussion:**

- 1 The Board was supportive of the proposed Task Group to review the Libraries Strategy for 2010, and requested that the following issues be taken into account as part of the review:
  - The need for the overall purpose of libraries to reflect changing requirements and optimise new opportunities.
  - The findings from previous Library Service reviews.
  - The need to obtain the views of residents not currently using the service.
  - The scope of work being undertaken by the New Models of Delivery Network on library transformation.
  - The role of libraries in providing IT access for residents receiving Universal Credit.
  
- 2 It was also agreed that the list of witnesses should include those involved with running community partnered libraries.

### **Actions/further information to be provided:**

None.

### **Resolved:**

That the scoping document for the review of the Libraries Strategy for 2020, amended to take account of the points in paragraphs 1 and 2 above, be approved.

Action by: Dominic Mackie

### **Board Next Steps:**

The Board to be kept informed of progress and outcomes as appropriate.

## **40/16 TRUST FUND TASK GROUP REPORT [Item 8]**

### **Declarations of interests:**

None

### **Witnesses:**

Kevin Kilburn, Deputy Chief Finance Officer

### **Key points raised during the discussion:**

- 1 The Chairman introduced the report and thanked the members of the Task Group and the supporting officers for their work in achieving a successful outcome.
- 2 The proposed management arrangement for management of the trusts through the Community Foundation for Surrey was in line with Charity Commission recommendations, and the Foundation would continue to work closely with the Charity Commission as the arrangements progressed to ensure that, as far as possible, the trust funds were spent in accordance with their original objectives.
- 3 It was agreed that it was important to ensure that arrangements were in place to prevent the Council becoming the sole trustee of dormant funds again in the future, and it was noted that it had been the intention of the Task Group to include a recommendation to this effect. It was therefore agreed that a further recommendation would be made to the Cabinet to ensure that any future bequests which resulted in the Council becoming a sole trustee for a trust fund should be managed by the Community Foundation for Surrey under the proposed new arrangements.

**Actions/further information to be provided:**

None.

**RECOMMENDED (to Cabinet):**

- a) That trust funds for which the County Council is the sole trustee, excluding the Lingfield Guest House and Looked After Children funds, be transferred to the Community Foundation for Surrey (CFS), and that officers be authorised to begin the liaison with the CFS to ensure this is actioned at the earliest possible date.
- b) That a further report outlining the proposals in relation to those trust funds where the Council is not the sole trustee be submitted in due course, following discussions with the other trustees.
- c) That, where a new trust fund is bequeathed to the Council, the presumption should be that the trust fund is transferred - under the same principles recommended for the current trust funds - to the Community Foundation for Surrey.

**Board Next Steps:**

Subject to Cabinet agreement to the above recommendations, the Council Overview Board will monitor these arrangements on an ongoing basis and make recommendations to the Cabinet as appropriate.

A progress report to be submitted to the Board in December 2016.

**Declarations of interests:**

Colin Kemp declared that he was a member of the Cabinet at Woking Borough Council and was therefore involved in decisions relating to Bandstand Square Developments Ltd, one of the companies overseen by the Shareholder Board. He remained in the room but took no part in the discussion on that part of the report.

**Witnesses:**

David Hodge, Leader of the Council  
Peter Martin, Deputy Leader of the Council  
Julie Fisher, Deputy Chief Executive  
Susan Smyth, Strategic Finance Manager

**Key points raised during the discussion:**

- 1 It was noted that it was the role of the Investment Advisory Board to make recommendations about whether or not to invest in opportunities which arose, whereas the Shareholder Board took a strategic view of the investments and reviewed the financial performance of the companies in which the Council owned shares. Both Boards were effectively sub-groups of the Cabinet, and final investment decisions were taken by Cabinet. The directors of individual companies decided on the support they required, including finance officer support.
- 2 The Council Overview Board's role was to scrutinise the Cabinet decisions and the work of the Shareholder Board, but it was not able to directly scrutinise the performance of individual arm's-length companies in which the Council was a shareholder. This was an issue which the Board would discuss further as part of the review of the 'scrutiny in a new environment' item at its next meeting.
- 3 It was felt that the presentation of the financial information in Annex C could be improved, including the addition of a column showing the return on the investment/capital.
- 4 In relation to Surrey Choices, it was reported that the Shareholder Board had deferred its scheduled review of the company's business plan review at its last meeting following the resignation of the Managing Director. No decision had therefore been taken in relation to the provision of additional funding for Surrey Choices. The Leader of the Council reported that the reasons for creating the company were sound, and that the organisation had delivered better services for residents. It was commented that the company summary on page 48 of the report didn't list loans provided by the Council, and it was agreed that this would be addressed in future reports. The Board also commented that the assertion that the company was providing services at a lower cost than the previous arrangements needed to be verified.
- 5 A question was asked about why Halsey Garton Property Ltd invested in property outside Surrey, and it was noted that a key objective was to achieve a broad spread of investment types to optimise returns and resilience, and that could not be achieved by only investing within the County.

Bob Gardner left the meeting at 11.25am and returned at 11.27am.

- 6 It was noted that there was a need to review the business strategy of Babcock 4S Ltd as a result of academisation. Further details were requested about the company's unrealised pension liability loss, and it was agreed that an explanatory note would be circulated to Board members.
- 7 It was reported that 50% of the Council's investment in Future Gov was in the form of a loan and 50% was share capital. The company had been successful in marketing its software outside the UK, notably in Australia, but had not had the domestic success it had expected. It was therefore refocusing its activity more on the consultancy side.

Colin Kemp left the meeting at 11.35am and returned at 11.38am.

**Resolved:**

- (a) That the issue of ensuring effective scrutiny of arm's-length companies be addressed by the Council Overview Board as part of the review of 'scrutiny in a new environment' in July 2016.
- (b) That further scrutiny in relation to Surrey Choices be scheduled once the Shareholder Board had completed the review of its business plan.

Action by: Ross Pike

**RECOMMENDED (to Cabinet):**

- (a) That that the future presentation of financial information to the Council Overview Board should be improved, including the addition of a column showing the return on the investment/capital for each company.

**Actions/further information to be provided:**

Further details to be provided about the unrealised pension liability loss incurred by Babcock 4S.

Action by: Susan Smyth

**Board Next Steps:**

Scrutiny of arm's-length companies to be addressed by the Council Overview Board as part of the review of 'scrutiny in a new environment' in July 2016, and further scrutiny in relation to Surrey Choices be scheduled once the Shareholder Board had completed the review of the business plan.

**42/16 EXCLUSION OF THE PUBLIC [Item 11]**

**RESOLVED:** That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information under paragraph 3 of Part 1 of Schedule 12A of the Act.



## 43/16 INVESTMENT STRATEGY: PROPERTY PORTFOLIO [Item 10]

### Declarations of interests:

None

### Witnesses:

David Hodge, Leader of the Council  
Peter Martin, Deputy Leader of the Council  
Julie Fisher, Deputy Chief Executive  
Susan Smyth, Strategic Finance Manager  
John Stebbings, Chief Property Officer

[NOTE: THE BOARD CONSIDERED THIS ITEM IN PRIVATE AT THE MEETING. HOWEVER, THE INFORMATION SET OUT BELOW IS NOT CONFIDENTIAL.]

### Key points raised during the discussion:

- 1 The revenue target from investments had been scaled down to reflect the competition from institutional investors in the market, but the key driver remained to provide a source of income to assist in the Council's aim of financial sustainability in the long-term. Whilst the total returns so far had not been in line with the original expectations, progress was being made. Capital gains were not a key driver for investment decisions, as the capital values varied over time according to the length of tenancies and the condition of buildings. The Investment Advisory Board looked at scenarios for each potential investment, taking into account the age of the building, timing of refurbishment and the length of tenancies, prior to making any recommendations to Cabinet.
- 2 It was reported that the level of detail in the Investment Advisory Board and Cabinet reports on investments was the same, and Members of the Board were encouraged to look at the Cabinet papers in order to gain a full understanding of individual investments. However, the Board did not feel that the figures reflected in the confidential annex were easy to understand without a comparison. It would therefore be helpful to have a clear analysis of what the Cabinet had originally anticipated in terms of income and what had been realised on a year by year basis.

Ben Carasco left the meeting at 12.25pm.

- 3 In relation to consideration of individual investment decisions, a lower return may be accepted on a Surrey-based scheme which provided regeneration benefit, but it would still need to be viable in terms of its contribution to the Council's long-term income-generation target. Whilst the aim of achieving a balanced portfolio was noted, it was queried why there had been no investment in residential properties. It was reported that the provision of key worker housing was an important consideration for the Council, and there was an opportunity to make provision for this as part of a mixed development with two of the properties purchased.

- 4 In conclusion, the Board supported the principle of a broad portfolio of investments to provide a revenue stream for the Council, but expressed some disappointment with the returns achieved to date. It was felt that the information on investment returns should be presented in a more transparent and accessible way to ensure rigorous scrutiny could be undertaken by the Cabinet. It was therefore

**RECOMMENDED (to Cabinet):**

That a report be presented to the Cabinet on an at least annual basis with a transparent and accessible summary of actual income compared to anticipated returns, to enable the Cabinet to review the performance of the investments made and consider whether any adjustments need to be made to the investment strategy.

**Actions/further information to be provided:**

None.

**Board Next Steps:**

The Board will consider the Cabinet response at its meeting on 6 July 2016.

**44/16 INVESTMENT STRATEGY: PROPERTY PORTFOLIO [Item 12]**

This Annex was considered at the meeting in conjunction with Item 10.

**45/16 DATE OF NEXT MEETING [Item 13]**

Noted that the next meeting would be held at 10.00am on Wednesday 6 July 2016.

Meeting ended at: Time Not Specified

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**Chairman**

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**Council Overview Board**

**ACTIONS AND RECOMMENDATIONS TRACKER – UPDATED 27 June 2016.**

The recommendations tracker allows Members to monitor responses, actions and outcomes against their recommendations or requests for further actions. The tracker is updated following each meeting. Once an action has been completed, it will be shaded out to indicate that it will be removed from the tracker at the next meeting. The next progress check will highlight to members where actions have not been dealt with.

Please note that this tracker includes recommendations from the former Council Overview & Scrutiny Committee.

Date of meeting and reference	Item	Recommendations	To	Response	Progress Check On
1 June 2016 R1/2016	<b>TRUST FUND TASK GROUP REPORT</b>	a) That trust funds for which the County Council is the sole trustee, excluding the Lingfield Guest House and Looked After Children funds, be transferred to the Community Foundation for Surrey (CFS), and that officers be authorised to begin the liaison with the CFS to ensure this is actioned at the earliest possible date.  b) That a further report outlining the proposals in relation to those trust funds where the Council is not the sole trustee be submitted in due course, following discussions with	Cabinet	The Cabinet’s response to the recommendations is set out in item 5 of this agenda.	6 July 2016

		<p>c) the other trustees.</p> <p>c) That, where a new trust fund is bequeathed to the Council, the presumption should be that the trust fund is transferred - under the same principles recommended for the current trust funds - to the Community Foundation for Surrey.</p>			
1 June 2016 R2/2016	<b>ANNUAL REPORT OF THE SHAREHOLDER BOARD</b>	That that the future presentation of financial information to the Council Overview Board should be improved, including the addition of a column showing the return on the investment/capital for each company.	Cabinet	The Cabinet's response to the recommendations is set out in item 5 of this agenda.	6 July 2016
1 June 2016 R3/2016	<b>INVESTMENT STRATEGY: PROPERTY PORTFOLIO</b>	That a report be presented to the Cabinet on an at least annual basis with a transparent and accessible summary of actual income compared to anticipated returns, to enable the Cabinet to review the performance of the investments made and consider whether any adjustments need to be made to the investment strategy.	Cabinet	The Cabinet's response to the recommendations is set out in item 5 of this agenda.	6 July 2016

## Scrutiny Board and Officer Actions

Date of meeting and reference	Item	Recommendations/ Actions	To	Response
1 June 2016 A5/2016	<b>FUTURE WORK PROGRAMME</b>	The Chairman to consider the addition of an item on the Council's Asset Management Strategy to the Board's forward work plan.	Council Overview Board Chairman	
1 June 2016 A6/2016	<b>ANNUAL REPORT OF THE SHAREHOLDER BOARD</b>	(a) That the issue of ensuring effective scrutiny of arm's-length companies be addressed by the Council Overview Board as part of the review of 'scrutiny in a new environment' in July 2016.	Council Overview Board Chairman	The item is on the agenda for this meeting.
1 June 2016 A7/2016	<b>ANNUAL REPORT OF THE SHAREHOLDER BOARD</b>	(b) That further scrutiny in relation to Surrey Choices be scheduled once the Shareholder Board had completed the review of its business plan.	Scrutiny Manager	Awaiting completion of the business plan review.
1 June 2016 A8/2016	<b>ANNUAL REPORT OF THE SHAREHOLDER BOARD</b>	Further details to be provided about the unrealised pension liability loss incurred by Babcock 4S.	Susan Smyth	

## COMPLETED ACTIONS - TO BE DELETED

Date of meeting and reference	ITEM	Recommendations/ Actions	To	Response
3 March 2016	<b>STAFF SURVEY REPORT</b>	The Scrutiny Chairmen to consider whether there were any specific issues from the staff survey for their areas which would require further scrutiny.	Council Overview Board Chairman	Scrutiny Officers have highlighted this recommendation to their Chairmen.
13 April 2016	<b>LEADERSHIP RISK REGISTER REPORT</b>	The Board agreed that Scrutiny Board Chairmen should consider scrutiny of their relevant Directorate Leadership Risk Registers as appropriate.	Scrutiny Board Chairmen	An update to be provided once risk register scrutiny has been scheduled.
3 March 2016 A4/2016	<b>STAFF SURVEY REPORT</b>	The outcomes of the review of the effectiveness of the High Performance Development Programme to be shared with the Chairman and Vice-Chairman of the Board.	Strategic Change and Efficiency Manager	HR advised that 21 September 2016 would be an appropriate date for a report, and this has been added to the work programme.
1 June 2016 A6/2016	<b>RESIDENT EXPERIENCE BOARD TASK GROUP SCOPING REPORT</b>	That the scoping document for the review of the Libraries Strategy for 2020, amended to take account of the points raised by the Council Overview Board, be approved.	Resident Experience Board Chairman	The scoping document was amended to reflect the issues raised by the Council Overview Board.





Council Overview Board  
6 July 2016

**MUNICIPAL BONDS AGENCY**

1. The attached report is due to be received by Cabinet at its meeting on 14 July 2016. The Council Overview Board is asked to review the report and consider whether it wishes to make any recommendations to Cabinet.

**Recommendation:**

That the Board reviews the attached report on the Municipal Bonds Agency and decides whether it wishes to make any recommendations to Cabinet.

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**Report contact:**

Phil Triggs, Strategic Finance Manager

**Contact details:** 020 8541 9894, [phil.triggs@surreycc.gov.uk](mailto:phil.triggs@surreycc.gov.uk)

**Sources/background papers:** None.

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<b>Section 151 Finance cleared on:</b>	<b>26/5/16</b>
<b>Monitoring Officer cleared on:</b>	<b>31/5/16</b>
<b>Cabinet Member cleared on:</b>	<b>7/6/16</b>

**Item 11**

**SURREY COUNTY COUNCIL**

**CABINET**

**DATE: 14 JULY 2016**

**REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES**

**LEAD OFFICER: SHEILA LITTLE, DIRECTOR OF FINANCE**

**SUBJECT: MUNICIPAL BOND AGENCY**



**SUMMARY OF ISSUE:**

The UK Municipal Bonds Agency (MBA) was established by the Local Government Association (LGA) and 56 local authorities, including Surrey County Council, for the purpose of enabling local authorities to borrow on more favourable interest rates than would otherwise be available to the council and to provide an alternative to the Public Works Loan Board (PWLb). The Council became an equity shareholder in the MBA during late 2015, following approval by the Shareholder Board to invest in the company for the amount of £450,000 equity under delegated authority.

In order to be able to borrow for the purposes of capital funding from the MBA, a local authority must accept the terms of a Framework Agreement and agree to joint and several guarantee. This means that local authorities on a proportional basis will be guaranteeing all the existing and future finance obligations of the MBA.

This Cabinet report will assess the risks of entering into the Framework Agreement and providing the Guarantee for the purposes of borrowing from the company, as well as assessing the safeguards and protections that are in place.

**RECOMMENDATIONS:**

It is recommended that the Cabinet notes:

- that the revised Treasury Management Strategy does not mean there is an immediate need to subscribe to the services of the Municipal Bond Agency;
- that there is no financial risk to the Council in joining the Municipal Bond Agency Framework and Guarantee;
- that if the current interest rate situation alters, the Municipal Bond Agency option could be useful.

It is recommended that Cabinet approves:

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- entry into the Municipal Bond Agency Framework Agreement and Guarantee, and delegates authority to the Director of Finance and the Director of Legal, Democratic and Cultural Services to execute the Framework Agreement and Guarantee together with associated legal documentation, but does not approve for the council to subscribe unless there is a change in the interest rate environment.

#### **REASON FOR RECOMMENDATIONS:**

It is anticipated that the Municipal Bond Agency will provide the council with an alternative source of borrowing capital funds at more favourable interest rates than those available from the PWLB.

#### **DETAILS:**

##### **Background**

1. The UK Municipal Bonds Agency (MBA) was established by the Local Government Association (LGA) and 56 local authorities, including Surrey County Council, for the purpose of enabling local authorities to borrow at lower rates of interest than would otherwise be available, and to provide an alternative to the Public Works Loan Board (PWLB).
2. The MBA is a public limited company and, as such, is directed by its Board. In due course, it is expected that the Board will include seven non-executives and three executives. In addition, the Board will have the two sub-committees, chaired by independent non-executives.
3. The Council became a shareholder in the MBA during 2015-16, following consideration by the council's Shareholder Board and invested £450,000 equity under delegated authority. In total, the MBA has raised over £6m from 56 local authorities and the LGA.
4. The MBA has every prospect of offering a cheaper alternative to the PWLB. Other options include commercial loans from banks and LOBO loans (lender option borrower option with the PWLB traditionally regarded as the 'lender of last resort' i.e., a reliable platform for borrowing, offering ease of entry and administration. The pros and cons of each source of borrowing are regularly assessed by officers when funding decisions are being considered, and also at the time of the drafting of the annual treasury management strategy.
5. In order to be able to borrow from the MBA, a local authority must accept the terms and conditions of the Framework Agreement and grant joint and several guarantee. This means that a local authority will be guaranteeing all the existing finance obligations of the MBA and any future obligations which are entered into jointly with other local authorities who are signed up to the Framework Agreement.
6. Over the past six months, a working group of English local authorities (advised by law firm Allen & Overy) has been reviewing the Framework Agreement and Schedules provided by the MBA and their legal advisors Clifford Chance. Counsel opinion was also sought by the working group and Allen & Overy as to whether local authorities could lawfully enter into the Framework Agreement and Guarantee and borrow from the Agency.

7. This report describes the risks of entering into the Framework Agreement and providing the Guarantee, and the safeguards and protections that are in place to mitigate the Guarantee from being exercised. It also sets out the legal powers relied upon to enter into these contracts.

### **Overview of the MBA**

8. The Local Government Association (LGA) established the UK MBA in June 2014 with the primary objective of reducing UK local authority financing costs, through becoming an efficient and cost effective provider of capital finance. The MBA will borrow money from a variety of third parties, including local authorities and will issue bonds. It will then lend on a matched basis to UK local authorities.
9. In order to achieve the most competitive pricing and beat PWLB rates, the MBA will have to be viewed as a strong counterparty and have a sovereign level credit rating, achieved through (amongst others), the following mechanisms:
  - A joint and several guarantee granted by each of the borrowing local authorities covering the full amounts owed by the MBA under any financing document which is covered by the guarantee;
  - Contribution arrangements, whereby if a local authority defaults on one of its payments to the MBA, the MBA shall require each other local authority that is party to the Framework Agreement to put in funds to cover the shortfall.
10. In giving the joint and several guarantees, local authorities will be relying on the MBA to ensure appropriate standards of creditworthiness in relation to each of the local authorities and liquidity management.

### **MBA's Client Base**

11. The MBA will only lend to UK local authorities who can give a joint and several guarantee. This client base is currently limited to 353 principal English local authorities, which have the general power of competence pursuant to section 1(1) of the Localism Act 2011 (the "General Power of Competence"), including the power to give a joint and several guarantee, and which satisfy the terms of the Framework Agreement in relation to accession of local authorities. The ability to give joint and several guarantees may in due course be extended to other local authorities, e.g., combined authorities or Scottish or Welsh authorities. In the event that this occurs, they will be eligible to borrow from the MBA, subject to appropriate credit checks.
12. In terms of the current client base, it is pertinent to query if this can be changed. It could be changed if the Government chose to legislate to grant or revoke the power; and a court could limit or extend local authority powers, although with courts it is usually the limiting of power. What will not change is that for any foreseeable time in the future, the Agency will only lend long term to a local authority that can give a guarantee.

13. The MBA would, in due course, like all local authority borrowers to become shareholders in the MBA. This ensures a stronger alignment of interest between local authority borrowers and shareholders and is viewed positively by ratings agencies and the markets. Accordingly, the MBA will charge a higher interest rate to local authority borrowers who are not shareholders, albeit one which remains competitive.

#### **Borrowing from the MBA**

14. In order to borrow from the MBA, a local authority will need to enter in to the Framework Agreement with the MBA. The Framework Agreement details how the MBA expects to interact with local authority borrowers, including detailing how the joint and several guarantee and contribution arrangements will work, and documenting the loan standard terms and conditions.

#### **Expected MBA Lending Timeline**

15. The lead up to the initial bond issue will require a degree of coordination as local authorities who wish to borrow from the MBA go through robust approval processes and the volume of demand for financing builds. On the signing of required documentation, the MBA will carry out its credit assessments prior to entering into any loan with a local authority. Once the MBA has sufficient borrowing demand built up, the process of issuing a bond will commence.
16. The MBA has completed all the necessary internal steps to be able to issue a bond at short notice. The MBA will only issue a bond when market conditions are appropriate, and accordingly will look for flexibility within a two to four week window, once local authorities have committed to borrow.

#### **Pricing of the MBA's Loans**

17. The MBA will operate a transparent pricing structure. The MBA will charge a margin over its underlying borrowing costs to borrowing local authorities:
  - 10 basis points (0.10%) for shareholders; and
  - 15 basis point (0.15%) for non-shareholders.
18. The MBA may adjust these pricing margins for new borrowing transactions at its discretion, but will not increase them. It is expected that over time these margins will reduce. In addition, the MBA will pass on any transaction costs to local authority borrowers. These costs will include: rating agency fees, bank syndicate fees and legal costs. These will not exceed 50 basis points (0.50%) on the total amount borrowed. Therefore, for example, a transaction fee of £50,000 will be charged on a £10m loan compared to £3,500 charged by the PWLB.

#### **Worked Example of Savings on a Loan**

19. It is envisaged that borrowing from the Agency (as opposed to the PWLB) will result in a lower interest rate achieved (expected to be a net 15 basis points lower). The Council's estimated capital funding requirement in 2016/21 is estimated at £184m. Therefore, if the Council funded this by means of new borrowing, by utilising the MBA instead of the PWLB, the annual saving achievable would be  $£184m \times 0.15\% = £276,000$  by 2020/21.

## Prepayment

20. Any loans from the MBA will be funded by money borrowed by the MBA from the markets, institutions or local authorities. Early repayment rights will track through between the local authority loans and the MBA financing arrangements. For bond issues, voluntary early repayment is calculated in a similar way as PWLB early repayment.

## Public Works Loans Board

21. The PWLB is still a valid source of long term borrowing for local authorities. It should be noted that a Government consultation is underway that will transfer the auspices of the PWLB to HM Treasury.

### **CONSULTATION:**

22. Senior management and the Cabinet Member for Business Services have been consulted in the preparation of this report.

### **RISK MANAGEMENT AND IMPLICATIONS:**

#### **Approach to Credit Assessment of Local Authorities**

23. Prior to approving any loans, the MBA will carry out a robust credit review of each borrowing local authority. The MBA has developed proprietary credit scoring models based on similar methodologies to the main rating agencies. In order to access funding from the MBA, a local authority would need to be able to achieve a single A credit rating on a standalone basis from the MBA.

#### **Key Elements of the Framework Agreement**

24. The guarantee required is unconditional and irrevocable. Accordingly, from the point in time at which the guarantee is executed, a local authority is guaranteeing **all the financing obligations of the MBA**. Should the Council give notice to withdraw from the guarantee, including repaying all outstanding borrowings, it will continue to guarantee all the borrowing of the MBA which is outstanding at that point in time from the period of its guarantee being in place until the debts run off.
25. The Framework Agreement mitigates the risk of a call on the joint and several guarantee. It achieves this by requiring the MBA to carry out certain processes, e.g., credit checks, and not to lend money to local authorities which it believes do not pass the credit assessment. It requires a level of diversification, which ensures that the MBA does not become overly concentrated in lending to a particular authority. It sets out the timelines for payment to ensure that the MBA has funds in place on a timely basis for payments of interest and principal, and it includes requirement for notification in the event that a local authority will have difficulty in meeting its payment obligations.

26. In addition, the MBA will maintain standby liquidity facilities, which are intended to be sized at an amount sufficient to avoid default on an interest payment. In the event that a local authority does not meet its obligation to the MBA on a timely basis, the MBA is required to ask authorities to make a contribution to meet the shortfall in proportion to their borrowings, in the form of a contribution loan, to avoid the guarantee being called in. In the event that a contribution is made, the MBA is required to pursue recovery of the debt plus interest from the defaulting local authority on a timely basis.

#### **Default by a Local Authority**

27. No principal local authority has ever defaulted on any loan (from the PWLB, a bank or any other lending institution). The statutory and prudential framework under which UK local authorities operate is amongst the strongest in the world. Any lender to a local authority has protection, under statute, by way of a charge on the revenue of that local authority. The unwillingness of a local authority to stain its reputation should result in the likelihood of a default event to be extremely low.

#### **Risks and Safeguards of Entry into Framework Agreement**

28. Given the participating local authority's exposure to the contribution arrangements and/or the Guarantee when borrowing from the MBA, it is important to understand that entry into the Framework Agreement and borrowing from the MBA is therefore very different in nature to borrowing from the Public Works Loan Board, under a bilateral loan facility or through a bond issue in the capital markets.
29. There are inherent risks associated with the proposed structure for any local authority entering into the Framework Agreement, not least the joint and several nature of the Guarantees that participating local authorities are required to provide before borrowing from the MBA. These are:
- The risk to a participating local authority is that its Guarantee may be called independently of any other Guarantee and for the full amount (albeit pro rata with other lenders) owing by the MBA under the financing document which is covered by such Guarantee (and, therefore, such participating local authority is potentially liable to pay out amounts to the MBA that vastly exceed the amounts borrowed).
  - Participating local authorities should also note that, even after a participating local authority has terminated its Guarantee, it will continue to guarantee the "Guaranteed Liabilities" entered into by the MBA before the date of termination of the Guarantee. The effect of this is that a participating local authority's liability under its Guarantee may potentially continue in existence for many years after termination.
30. However, the risks associated with the Guarantees are mitigated by the contribution arrangements mechanism. The Framework Agreement is designed such that the real exposure for participating local authorities, from a practical perspective, should be under the contribution arrangements rather than the Guarantees, and the exposure of each participating local authority would be calculated by reference to the amount borrowed by it as a proportion of all non defaulting participating local authorities borrowing under the structure.



31. Even though the participating local authorities are entitled to expect that the MBA will operate in accordance with its obligations under the Framework Agreement, participating local authorities are nevertheless inevitably exposed to the risk that the MBA fails to observe its obligation under the Framework Agreement. This may include failure to sustain and police robust due diligence and credit assessments on enrolling local authorities (and frequent checks post enrolment), therefore making it more likely that the participating local authority will need to contribute over and above their borrowings whether through the contribution arrangement or the Guarantee.
32. It is also possible that the MBA itself may default on its underlying bilateral borrowing from counterparties or under bond issues by not managing its cash flows in a prudent manner, or that the MBA may fail to operate the contribution arrangements in a manner as envisaged in the Framework Agreement, in which case, each participating local authority is exposed to a call on its guarantee without the protection that the contribution arrangements provide.
33. However, the Framework Agreement does contain provision to mitigate the risks identified above, in summary by:
- The contractual obligations upon the MBA to undertake an initial and then at least annual credit assessments of each local authority;
  - The limit on the amount each participating local authority may borrow from time to time;
  - The matched transactions basis on which the MBA itself will borrow money;
  - The power for participating local authorities to collectively instruct MBA not to undertake further borrowing.
34. In addition to the above, the statutory and prudential framework under which local authorities operate should provide some reassurance as to the financial standing of the local government sector (and as such the unlikelihood of a local authority defaulting on its loans):
- Compliance with the prudential framework established by Part 1 of the Local Government Act 2003 and related regulations, including the Prudential Code for Capital Finance in Local Authorities published by CIPFA;
  - Requirement to set a balanced budget in accordance with Section 31A and Section 42A of the Local Government Finance Act 1992;
  - Each local authority's Section 151 Officer's report on robustness of budget estimates and adequacy of reserves under section 25 of the Local Government Act 2003;
  - Requirement to publish audited accounts by a statutory deadline;
  - External audit opinion in respect of a local authority's accounts.

34. Significantly the MBA has clarified that there can be no liability concerning both the Joint & Several Guarantee and the contribution arrangements unless the Council takes out a loan. In this context, if a local authority did make a decision to default on a loan, it is envisaged that a formal declaration to the Agency (and to the industry in general) would be made, and the Agency's plan on recovery from guarantors would be implemented. Liability of the Council in the event of a default would only be only invoked if the Council took out a loan and the liability would be shared pro rata with the other local authorities.

#### **Financial and Value for Money Implications**

35. The MBA offers the Council an alternative source of borrowing capital funds at a more favourable interest rate than the PWLB. Balanced against the VFM benefit is a degree of risk concerning the possible default of local authority counterparties as set out in the report.
36. The main risk arises from the council (in partnership with other local authority guarantors) being required to guarantee a defaulting local authority's loan repayment. This risk is mitigated by the MBA's robust credit reviews of borrowing local authorities and the achievement of a minimum credit rating. The fact that no local authority has ever defaulted along with the reputational risk that would result if such a default ever took place stands in favour of the current perception of an extremely small likelihood of a local authority default ever happening.
37. The mitigating procedures set up to minimise the risk level against guarantors are clearly laid out in the Risk section of this report. Moreover, the statutory and prudential framework under which local authorities operate will also alleviate the risk of a local authority default.
38. Ultimately, this is an instance where the pros/benefits and cons/risks of participating in this facility need to be carefully weighed up and considered. On the pros/benefits side of the equation, the MBA could offer a cheaper source of borrowing that could result in savings to the Council's future funding of its capital expenditure. On the cons/risks side of the equation, what needs to be carefully understood is the real possibility of the county council being called in to stand as a guarantor for a defaulting local authority into the future. This possibility needs to be carefully considered, however remote the probability of it ever happening.
39. This is a decision for Cabinet in terms of the Council's support of a company that has been created with the best intentions of providing an alternative means of long term capital funding but, at the same time, being mindful of the risks of future default, a possible event that may occur long into the future.

#### **Section 151 Officer Commentary**

40. The Director of Finance recognises the benefits of lower cost long term borrowing that will accrue to UK local authorities, but is also mindful of the long term risks associated with offering a joint and several guarantee to those local authorities that might default in the future. Having carefully considered the balance of the benefits of lower cost loans and the risks of bearing a proportion of costs of possible future default, the Director of Finance

considers that it is not unreasonable to support the council in entering into the Framework Agreement, Guarantee and associated legal documentation, and that separate consideration of the risks will be given ahead of any decision to enter into a loan from the Agency.

#### **Legal Implications – Monitoring Officer**

41. Due to the innovative nature of the arrangement, an opinion was sought on behalf of all local authorities that may wish to take part in the MBA's operations. Jonathan Swift QC confirmed that, in his view, entry into the Framework Agreement and execution of the Guarantee would fall within the ambit of the general power of competence under the Localism Act 2011.
42. Leading Counsel also gave very clear advice on both the requirement for Councils to take reasonable decisions, and for them to be able to show that they have exercised their powers consistent with their fiduciary obligation to local taxpayers. Cabinet should therefore make an assessment of both the potential advantages and disadvantages of the Framework Agreement.
43. In doing this they will of, course, wish to be able to evaluate the extent to which the Council will benefit from better borrowing terms, taking into account both its likely borrowing requirements over the period of the agreement and the specific financial position of the Council, both now and in relation to the potentially very significant and long-term obligations placed upon it by entering into this arrangement.

#### **Equalities and Diversity**

44. There are no equality or diversity issues arising from entering into the framework agreement.

#### **WHAT HAPPENS NEXT:**

1. Approval by Cabinet of the Framework agreement.
2. Signed documentation returned to the MBA.
3. MBA issues first bond and lends to first local authority borrowers (timing still to be decided by the MBA on the issuance of the first bond).
4. Decisions on loans are delegated to the Director of Finance in accordance with the delegation powers listed in the Treasury Management Strategy 2016/17.

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**Annexes:**  
None

**Sources/background papers:**  
MBA Framework Agreement

