

ACTION TAKEN BY LEADER (EXECUTIVE FUNCTION)

Subject	Sale of Claim in LBI
Cabinet Member	Leader of the Council
Date of decision	20 January 2013
Date of decision comes into effect	

Summary	<p>This report authorises the London Borough of Barnet to, through its lawyers, Bevan Brittan, and the Local Government Association, to instruct Deutsche Bank to approach the market on its behalf with a view to selling its priority claim against the insolvent estate of LBI. Any sale of the claim is subject to receipt of a bid price that is acceptable to the Council. The administration of the insolvent estate of LBI is likely to continue for several years given the complexity of the ongoing issues in Iceland which creates a level of uncertainty around the timing of recoveries through the administration process. A sale of the claim would remove the uncertainty and allow immediate access to funds owed to the Council.</p>
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Officer Contributors	Deputy Chief Operating Officer Head of Treasury
Status (public or exempt)	Public with separate Exempt report
Wards affected	N/A
Enclosures	
Reason for exemption from call-in (if appropriate)	Urgency
Key decision	Yes

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1. RELEVANT PREVIOUS DECISIONS

1.1 None

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

2.1 Efficient financial management procedures are a necessary contribution to enable the achievement of all council priorities.

3. RISK MANAGEMENT ISSUES

3.1 Any sale of the claim is subject to receipt of a bid price that is acceptable to the Council. Interim distributions from the LBI winding-up board amounting to around 50% of the total accepted amount of the Council's claim have been received. However, the administration of the insolvent estate of LBI is likely to continue for several years given the complexity of the ongoing issues in Iceland which creates a level of uncertainty around the timing of recoveries through the administration process. Furthermore, there is a risk that the Icelandic government may require creditors to take a "haircut" on future distributions, which could potentially result in significant loss to Barnet Council. A sale of the claim would remove the uncertainty and allow immediate access to funds currently held by the LBI winding up Board.

3.2 The sale of the Council's claim will result in receipt of a substantial cash payment now rather than having to wait until 2018, or beyond, for payment in full. The proceeds of the sale will be paid in Pounds Sterling. Future distributions from the insolvent estate of LBI could be made in a number of currencies, including Icelandic krónur, which is less advantageous as the Council will bear any foreign exchange rate risk along with any costs associated with on-going participation in the administration.

4. EQUALITIES AND DIVERSITY ISSUES

4.1 Recovering funds due to the Council is an important aspect of the management of resources to ensure the equitable delivery of services to all members of the community.

5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

5.1 These are covered in section 8.

6. LEGAL ISSUES

6.1 Legal advice on the sale by auction is being provided by lawyers Bevan Brittan.

7. CONSTITUTIONAL POWERS

- 7.1 Under Financial Regulations (Section 4.6.7) the Council delegates the execution and administration of treasury management decisions to the Chief Finance Officer (section 151 officer), who will act in accordance with the organisations Treasury Management practices. However, the decision to participate in the auction of LBI debt is considered to be a key decision owing to the potentially significant financial implications, and therefore this decision is being taken under executive powers.
- 7.2 The sale of debt will result in a contract when the auctioneer's hammer falls. This means that the contract procedure rules should also apply and therefore any contract over £500,000 has to be on the Procurement Forward Plan approved by Cabinet Resources Committee for be approved by Cabinet Resources Committee in its own right.
- 7.3 Part 3, Responsibility for Functions, Para 4.2 states that 'the Leader may discharge any function of the Executive'.
- 7.4 As this matter is of special urgency, under Paras 15 and 16 of the Access to Information Rules, it is being implemented via this Delegated Powers Report with the agreement of the Chair of Business Management Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.
- 7.5 The decision as identified within this report is a matter of urgency and provides the Council the ability to take part in the auction. The Chairman of Business Management Overview and Scrutiny Committee has agreed that the circumstances of the decision are of an urgent nature and has provided consent that this decision is not subject to call-in procedures. This is in accordance with the Councils Constitution Overview and Scrutiny Procedures Rules, section 16.

8. BACKGROUND INFORMATION

- 8.1 The Council has received £8.6 million in four partial distributions from LBI, the Landsbanki Winding up Board. This represents about 53% of the total expected distribution (circa £16.5 million). About £118,000 is being held in escrow in Icelandic krónur due to the Icelandic Governments' currency exchange restrictions
- 8.2 However, the administration of the insolvent estate of LBI is likely to continue for several years given the complexity of the ongoing issues in Iceland which creates a level of uncertainty around the timing of recoveries through the administration process.
- 8.3 Under Icelandic law, claims in a winding up are a form of property that can be traded. A market in claims has developed, and various third parties have approached local authorities and the LGA with informal offers to purchase LBI hf priority claims.
- 8.4 The LGA commissioned a report to model the potential costs and benefits of local authorities selling their claims in the administration of LBI hf. The report concluded

that fair value could be achieved and that local authorities should sell their claims collectively to maximise sale value, given future legal uncertainty and currency risk. Deutsche Bank were appointed (through the LGA and Bevan Brittan) to run the auction following a competitive tender process. A number of other priority creditors (including local authorities) are participating in the auction.

- 8.5 The sale of claim is based on the sale of the total debt plus interest on balance held in escrow in Icelandic Kroner as approved by the LBI Winding up Board which equates to £16.5 million. If the Council's reserve bid price is met, the Council will receive a payment settlement taking into account the four partial payments received to date.

9. LIST OF BACKGROUND PAPERS

- 9.1 None

10. DECISION OF THE LEADER

- 10.1 **That officers are instructed to sell the Council's claim in LBI at auction.**



Signed

Cllr Richard Cornelius, Leader of the Council

Date

20 January 2014

