

<p><b><u>MEETING</u></b></p> <p><b>URGENCY COMMITTEE</b></p>
<p><b><u>DATE AND TIME</u></b></p> <p><b>THURSDAY 29<sup>TH</sup> JANUARY, 2015</b></p> <p><b>AT 6.00 PM</b></p>
<p><b><u>VENUE</u></b></p> <p><b>HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ</b></p>

Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
8.	Chairman's Urgent Late Item of Business - Sale of Claim in Glitnir (Public)	1 - 6
9.	Motion to Exclude the Press and Public  That under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act (as amended)	
10.	Chairman's Urgent Late Item of Business - Sale of Claim in Glitnir (Exempt)	7 - 10
11.	Any other exempt item(s) that the Chairman decides are urgent	

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## Urgency Committee

29 January 2015

<b>Title</b>	<b>Sale of Claim in Glitnir hf</b>
<b>Report of</b>	Chief Operating Officer
<b>Wards</b>	All
<b>Status</b>	Public with separate Exempt report
<b>Enclosures</b>	None
<b>Officer Contact Details</b>	Iain Millar, Head of Treasury , <a href="mailto:iain.millar@barnet.gov.uk">iain.millar@barnet.gov.uk</a> 0208 359 7126

### Summary

This report recommends the London Borough of Barnet participate in a single price currency auction with a view to selling the investment balance held in escrow from the insolvent estate of the Icelandic bank Glitnir hf. Any sale of the claim is subject to receipt of a bid price that is acceptable to the Council. The sale of the Council's balance held in escrow has been subject to Icelandic Government currency controls since 2012. A sale of the claim would remove the uncertainty and allow immediate access to funds owed to the Council.

### Recommendations

1. That the Committee approve the sale by currency auction of the investment balance held in escrow from the insolvent estate of the Icelandic bank Glitnir hf., subject to receipt of a bid price that is acceptable to the Council.
2. That the Section 151 officer be instructed to agree the reserve price with the Local Government Association in accordance with the recommendation in the exempt report and to sell the Council's remaining interest in the insolvent estate of the Icelandic bank Glitnir hf. and to report on the proceeds of sale to next Policy and Resources Committee.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 Formal approval is required to sell a treasury investment through the currency auction of Glitnir hf debt is required, because the decision to participate in the auction has significant financial implications.
- 1.2 This report is being brought to Urgency Committee because the timescale for authorisation and disposal by auction is very short. The Council is participating in a local authority creditor group action through the Local Government Association (LGA) to minimise legal costs. Legal advice and guidance on the currency auction was received on 20<sup>th</sup> January. The submission deadline to participate the auction is 30<sup>th</sup> January 2015. The auction is being held on 10<sup>th</sup> February 2015. The decision as identified within this report is a matter of urgency and provides the Council with the ability to take participate in the auction.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Council had invested £12.4 million in investment deposits with Icelandic Bank Glitnir and has been seeking to recover principle and interest due from the Glitnir Winding up Board since 2008, when the bank collapsed .To date the Council has recovered £10.97 million. A balance in Icelandic Kroner equivalent to £2.5 million was deposited in an escrow account by the Glitnir Winding up Board in 2012. Recovery of the balance has been restricted by Icelandic Government currency export controls.
- 2.2 On 13 March 2012 the Icelandic parliament passed law No. 17/2012. currency control restrictions, introducing special provisions applicable to Icelandic krónur (ISK) payments to non-Icelandic parties (such as UK local authorities). Consent from the Icelandic Central Bank is required under this new law in order to pay priority creditors the Icelandic krónur (ISK) element of the distribution.
- 2.3 The Council has an opportunity to dispose of the final part of its interest in the Glitnir balance held in the escrow account in Icelandic kroner, through sale by currency auction. The Central Bank of Iceland will hold a single price currency auction on 10th February 2015.
- 2.4 If the Council does not participate in the auction, it is not known when currency controls might be lifted. It is possible that future currency exports will be subject to an exit tax of potentially 30-40% which could increase exit costs to over £1 million.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 This is the first action from the Central Bank of Iceland to relax currency restrictions for local authority creditors to allow them to release funds held in escrow. This is may be the only opportunity for the Council to release the funds it is due through auction. At present there is no exit tax on the sale proceeds from the currency auction.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 If the reserve price is reached the Council's escrow balance will be converted into Euros and paid into the Council's bank account (subject to currency conversion costs and net of auction costs). The outcome of the sale will be reported via an Officer Full Delegated Powers Report in accordance with Section 17, Table A of the Contract Procedure Rules.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

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

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 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 Glitnir hf. priority claims.
- 5.2.2 The Council will participate in the currency auction through its lawyers, Bevan Brittan, and the LGA and will instruct Islandsbanki to sell on its behalf subject to a reserve price being reached.
- 5.2.3 The sale will be subject to auction costs of sale, creditor shared legal costs and currency conversion costs. The Council will pay an auction fee of 0.5% and a share of legal fees to Bevan Brittan.
- 5.2.4 The Council will have to sell at a discount and will incur a loss on sale. Provision has been made in the risk reserve to cover such losses.

##### **5.3 Legal and Constitutional References**

- 5.3.1 Council Constitution, Financial Regulations – under the 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. The decision to participate in the auction of Glitnir debt is considered to have an impact on the Council's Treasury Management Policy owing to the potentially significant financial implications and, as such, would ordinarily be a decision that falls within the remit of the Policy & Resources Committee (Financial Regulations 4.6.3).
- 5.3.2 Responsibility for Functions, Section 7 – details urgency provisions which include taking a provision for the decision to be taken by an Urgency Committee, or for the Chief Executive to discharge the function. Due to the short timescale for the disposal, this decision is being taken by the Urgency

Committee which has responsibility “To consider any item of business which needs a decision as a matter of urgency and where a meeting of the relevant Committee is not scheduled to take place within the time period within which the decision is required.” (Responsibility for Functions, Annex A) The next meeting of the Policy & Resources Committee is not scheduled to take place until 17 February 2015.

- 5.3.3. The sale of debt will result in a contract when the auctioneer's hammer falls. This means that the Contact Procedure Rules should also apply and therefore any contract over £500,000 is normally approved by Policy and Resources Committee via the the Procurement Forward Plan . Following the sale by auction, the outcome of the sale will therefore be reported in a section 151 officer Delegated Powers Report.

## 5.4 Risk Management

- 5.4.1 Any sale of the claim is subject to receipt of a bid price that is acceptable to the Council and the reserve price may not be reached. The Council may have to sell at a loss but this will be partly offset by interest accrued to date on the balance held in escrow.
- 5.4.2 If the Council does not sell by auction, there is a risk that the Icelandic government may require creditors to pay an exit tax when currency controls are relaxed, which could potentially reduce the amount receivable by the Council. Sale by auction on 10 February 2015 would remove the uncertainty and allow immediate access to funds currently held by the LBI winding up Board.
- 5.4.3 The sale of the Council's claim will result in receipt of a substantial cash payment of now if the reserve price is reached. The proceeds of the sale will be paid in Euros. The Council will bear any foreign exchange rate risk along with any costs associated with the release of the amount held in the escrow account.

## 5.5 Equalities and Diversity

- 5.5.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
  - advance equality of opportunity between people from different groups
  - foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services

- 5.5.2 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.

## 5.6 Consultation and Engagement

5.6.1 Not applicable

## 6. BACKGROUND PAPERS

6.1 Sale of Claim in LBI, Leader Delegated Powers Report, 20 January 2014:  
<http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=5117>

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## AGENDA ITEM 10

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