

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

22 June 2011

### Report of the Chief Executive, Director of Finance and Chief Solicitor & Monitoring Officer

#### Part 1- Public

#### Executive Non Key Decisions

#### **1 LOAN ADVANCE TO AGE CONCERN MALLING**

**Members are asked to approve, retrospectively, a short term loan advance that was made to Age Concern Malling, as a matter of urgency, on 26 April 2011. The decision to advance the loan was made in consultation with the (then) Cabinet Member for Finance, the (then) Cabinet Member for Community Development and the (then) Chairman of Scrutiny Committee.**

#### **1.1 Introduction**

- 1.1.1 In early April 2011, the Chief Executive received a letter from the Chief Officer of Age Concern Malling on behalf of The Trustees of Age Concern Malling seeking the Borough Council's urgent help with a short term funding problem.
- 1.1.2 A copy of the letter is attached at **[Annex 1]**, from which Members will note that, due to funding cuts from both Kent County Council and West Kent PCT , the charity's income for 2011/12 is due to reduce by some £73k, amounting to a 21% reduction in income.
- 1.1.3 The letter explains that in order to cope with the reduction the charity would have to seriously consider partial closure of its day centre and a reduction of service provision in the home. Naturally, such cuts could seriously affect many vulnerable elderly people in the area.
- 1.1.4 However, the letter goes on to say that the charity has been named in a will and has been left a legacy which is estimated at around £1.3 million. Some of the investments cannot be released immediately (property etc), but the first distribution of funds to the charity from bank accounts and liquid investments is expected to be circa £600k in around October 2011.
- 1.1.5 Members will appreciate that given the forthcoming legacy, the charity were not keen to damage existing services by making cuts that could prove to be irreversible and thereby disadvantage vulnerable residents. Therefore, an

approach was made to the Council to see if an urgent short term loan could be made to “tide them over” until the first distribution of the legacy was made.

## **1.2 The Loan**

- 1.2.1 Consideration was given to this by the Management Team who unanimously expressed ‘in principle’ support for the proposal. The Team were cognisant of the fact that Age Concern Malling is one of five key voluntary sector bodies to which the Borough Council provides a grant, and for which there is a service level agreement established.
- 1.2.2 The Management Team could see a huge disbenefit to some of our most vulnerable residents if Age Concern were unable to provide its services because of its cash flow problem while it awaits receipt of its legacy. As Members will fully appreciate, the services it provides are vital to many; especially the dementia respite care it provides that enables those who care for dementia sufferers at home to have some time to themselves. Without this support it is likely that they would not be able to sustain their care.
- 1.2.3 The Management Team also felt that the advance of a loan to sustain this charity for a period of 6 months or so until it receives the first tranche of its legacy seemed entirely in keeping with the Coalition Government's policy guidance to local authorities in relation to the voluntary sector.
- 1.2.4 In view of the timing relative to the cycle of meetings and the pending borough council elections, it was not possible to seek formal approval in the usual way, so to expedite matters the Director of Finance wrote to the (then) Cabinet Member for Finance (David Aikman); the (then) Cabinet Member for Community Development (Nicolas Heslop); and the (then) Chairman of Scrutiny Committee (David Thornewell) seeking their ‘in principle’ support to the making of a loan, subject to the resolution of a few queries which were to be raised with the charity.
- 1.2.5 Detailed discussions were held with each of the above as well as the Chief Officer of Age Concern Malling, and as a result of those discussions it was agreed that an interest-bearing loan of £25,000 should be made immediately with the potential to advance up to £50,000 a later date. The interest rate that we have applied is 5%. It is envisaged that the loan will be repaid by the end of 2011.
- 1.2.6 The loan agreement was prepared by the Chief Solicitor and Monitoring Officer and was signed by the Chief Executive of the Council, the Chief Officer of the charity and a Trustee on the 26 April 2011. On this same date, an advance was made of £25,000 to the charity's bank account.

## **1.3 Legal Implications**

- 1.3.1 The loan to Age Concern was made under Section 2 of the Local Government Act 2000, in order to promote the economic and social well being of the area of

Tonbridge and Malling. The monies paid under the loan are repayable in accordance with the terms of the loan agreement.

#### **1.4 Financial and Value for Money Considerations**

- 1.4.1 Interest of 5% is being charged on the loan which will cover the costs of administration and loss of investment income through our normal channels.

#### **1.5 Risk Assessment**

- 1.5.1 Assurance was sought from the Solicitors that there was unlikely to be any context to the will. A letter was received from the Solicitors dated 19 April 2011 advising that

*“at present there are no claims being brought against the estate under the Inheritance (Provision for Family and Dependents) Act 1975 and we do not anticipate any claims being brought against the estate under this Act”.*

- 1.5.2 A copy of the will has been viewed by your officers and the valuations given in the Chief Officer’s letter appended at Annex 1 seem reasonable.

#### **1.6 Equality Impact Assessment**

- 1.6.1 See 'Screening for equality impacts' table at end of report

#### **1.7 Policy Considerations**

- 1.7.1 Community

#### **1.8 Recommendations**

- 1.8.1 Members are **RECOMMENDED** to retrospectively endorse the action already taken, in consultation with the former Cabinet Members for Finance and Community Development and the Chairman of the Scrutiny Committee to enter into a loan agreement with Age Concern Malling, details of which are set out in the report.

Background papers:

Nil

contact: Sharon Shelton  
Adrian Stanfield  
David Hughes

David Hughes  
Chief Executive

Sharon Shelton  
Director of Finance

Adrian Stanfield  
Chief Solicitor and Monitoring Officer

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision taken will assist in protecting services for vulnerable people in the community
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	The services to elderly people will be protected. If this action was not taken, services would have to be cut.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*