

TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES and HEALTH ADVISORY BOARD

23 September 2014

Report of the Management Team

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 KENT SAVERS CREDIT UNION

1.1 Introduction

- 1.1.1 Members of this Advisory Board and its predecessor have, on a number of occasions, considered the challenges of those on low incomes securing affordable loans as well as the overall management of debt.
- 1.1.2 In March 2013, the former Communities Advisory Board received a report on the Kent Savers Credit Union and the Cabinet Member for Communities resolved, amongst other things, that a campaign of raised awareness of Kent Savers be undertaken, via the website, with partner organisations and existing forums.
- 1.1.3 In June 2013, this Advisory Board received a report from the Chief Executive on short term lending, and also received a presentation from Mr Hopkinson who had been undertaking research on behalf of Tonbridge and Malling CAB into why people chose payday loans rather than other financial products. Some of the reasons put forward by Mr Hopkinson from his research were linked to feelings of shame, belittlement and lack of respect perceived during face to face contact; and the anonymity of applying for financial help over the internet (as with some payday loans, for example) was attractive to many people. Kent Savers has been trying to address some of these issues and, for example, has developed an on-line application form.

1.2 Request for Subordinated Loan

- 1.2.1 In June this year, the Leader received a letter [**Annex 1**] from Gail Devries, President of Kent Savers Credit Union, requesting that the Council considers offering a £10,000 subordinated loan to enable Kent Savers to meet new banking requirements for capital and at the same time provide more funds to loan to those in need. Members will note that this request went to all Kent District Councils.
- 1.2.2 Presently, Kent Savers are constrained as to how much they can advance because of the regulations surrounding the 'capital to asset ratio' and hence why

they need to seek further capital funding (ideally by way of subordinated loan) from third parties, e.g. local councils.

- 1.2.3 The Director of Finance and Transformation has spoken to the General Manager at Kent Savers to discuss this further and to understand the 'risks' to the Council's investment were Members to agree to the request. Subordinated loans are long-term loans to a credit union for a minimum of 5 years, and are another way of providing 'capital' since the lender cannot demand the return of the investment before the stated maturity date unless the loan is in default. The lender receives interest during the term of the loan at a rate agreed in advance with the credit union (or alternatively the lender can forego the interest for the benefit of members in the scheme). In an insolvency, a subordinated loan ranks behind all other creditors except holders of deferred shares.
- 1.2.4 In a worst case scenario, therefore, there is little financial protection for the Council with this type of loan and there is a 'risk'; but it is important that this risk is weighed against the benefits that can be brought about for our residents. As Members will be aware, the main aims of Kent Savers are to promote saving and provide their members with loans at reasonable rates, so that they feel in control of their own money. Kent Savers has very recently signed up a 'budget account' partner to develop an account to meet the needs of people who find it difficult to budget and plan their spending. (These are sometimes known as jam jar accounts).

1.3 Options

- 1.3.1 When considering a loan request to an organisation such as Kent Savers where preferential lending terms are offered, consideration has to be given whether such a loan would amount to 'state aid', which is itself a complex issue.
- 1.3.2 State aid is prohibited by law and there are strict tests as to the nature and amount of assistance which can be offered to any business or organisation under the exemptions to that general prohibition.
- 1.3.3 Legal Services advise that this type of lending appears, on the face of it, to be state aid. There is, however, a possibility that one of the exemptions, the "de minimis Regulation" may apply provided that the state aid in question is "transparent" and the relevant threshold for state aid being given to this undertaking has not been exceeded in the last three financial years. The relevant threshold for state aid is EU 200,000 cumulatively over a three year period.
- 1.3.4 The type of subordinated loan requested is unlikely to meet the "transparency" requirements of the de minimis Regulation, and therefore this exemption would not apply. In those circumstances, the assistance offered would be likely to be considered as state aid.
- 1.3.5 However, an alternative to a subordinated loan would be to offer an unconditional grant of £10,000. As the Director of Finance and Transformation understands it, a grant of this kind would give Kent Savers an immediate and permanent increase in their regulatory capital thereby achieving the objective of improving the capital

to asset ratio. The 'advantage' of a grant over a loan in this respect is that the 'De Minimis' Exemption rules can be applied.

- 1.3.6 The General Manager at Kent Savers has confirmed that the state aid received by them in the last three years has amounted to £78,000, which is below the threshold in the de minimis Regulation. Therefore, it would be possible to advance an unconditional grant and comply with state aid regulations.

1.4 Further background information about Kent Savers

- 1.4.1 By way of further background information for Members, Kent Savers work with Circle Housing Russet and other housing associations to assist tenants.
- 1.4.2 They also work alongside our staff at the Gateway, as well as Tonbridge & Malling CAB and other CABx across Kent.
- 1.4.3 Since their launch with the Diocese of Rochester in June of this year, they have also started to work with churches in West Malling and Aylesford and are in liaison with others in our borough. The latest newsletter can be found at:

<http://www.kentsavers.co.uk/images/library/documents/30062014-121934.pdf>

- 1.4.4 The Director of Finance and Transformation has examined the latest set of accounts and this shows a satisfactory balance sheet position. In terms of the revenue account, however, this shows a 'worsening' position largely as a result of reductions in grant funding. The remedy is to advance more by way of grants/loans on which they then earn interest so that income and expenditure become better matched. Of course, the 'Catch 22' is that they are not permitted to advance more without securing additional capital funding (see paragraph 1.2.2).
- 1.4.5 We understand that Swale Borough Council has agreed to advance £10,000 and other Kent districts are giving consideration to it. Ironically, the more Councils there are that decide to offer support in this way, the closer to the state aid threshold Kent Savers will come.

1.5 Conclusions

- 1.5.1 We believe that there are potential benefits to our residents of providing support to Kent Savers, particularly in view of the priority we have attached to the impact of welfare reform and the concerns expressed about payday loans.
- 1.5.2 Although Kent Savers have requested a subordinated loan of £10,000, the nature of loan requested is likely to amount to state aid, which would be unlawful.
- 1.5.3 Whilst an unconditional grant of a similar amount would mean that the money would not be repaid to TMBC, legal advice is that it would avoid the state aid issues as the De Minimus Exemption applies.
- 1.5.4 Members are therefore asked to consider whether they wish to consider awarding to Kent Savers an unconditional grant of £10,000.

1.5.5 In view of the arguments set out above, we would ask Members to give serious consideration to an unconditional grant of £10,000 which could be funded from the Welfare Reform Reserve.

1.6 Legal Implications

1.6.1 None save as set out above.

1.7 Financial and Value for Money Considerations

1.7.1 As set out above. Funding can be made available from the Welfare Reform Reserve.

1.8 Risk Assessment

1.8.1 Kent Savers is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority .

1.8.2 State Aid Regulations need to be considered when offering financial support to an organisation like Kent Savers. The assessment undertaken with Legal Services suggests that from a legal point of view, offering an unconditional grant as opposed to a loan would be the only lawful option.

1.8.3 Members will note that an unconditional grant would not be repayable.

1.9 Equality Impact Assessment

1.9.1 See 'Screening for equality impacts' table at end of report

1.10 Policy Considerations

1.10.1 Community

1.11 Recommendations

1.11.1 It is **RECOMMENDED** that Members give consideration to the request for financial support of £10,000 to Kent Savers in the form of an unconditional grant, having regard to the issues set out within the report.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Sharon Shelton

Nil

Julie Beilby
Chief Executive

For Management Team

Sharon Shelton
Director of Finance and Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
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	Funding advance should provide opportunities through Kent Savers for all sectors of our community
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	Funding advance should provide opportunities through Kent Savers for all sectors of our community
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.