

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter:	Provisional Agreement for the Transfer of a Loan, previously made to Huntingdonshire Regional College, to Cambridge Regional College as a consequence of the merger of the two colleges.
Meeting/Date:	Overview & Scrutiny Panel (Performance and Customers) – 6 th March 2017 Cabinet – 16 th March 2017
Executive Portfolio:	Strategic Resources: Councillor J A Gray
Report by:	Head of Resources
Ward(s) affected:	All Wards

Executive Summary:

In June 2013, Cabinet approved the lending of £1.5m to Huntingdonshire Regional College (HRC) for a period of 10 years. To date HRC has met all of its loan repayments and currently £1.1m remains outstanding.

As a consequence of a Grade 4 “inadequate” Ofsted inspection of HRC and the subsequent departure of the senior management team, Cambridge Regional College (CRC) has been supporting HRC in the continued management of the college. An “Area Review” of both colleges is currently being undertaken and, as noted in the report from CRC (**Appendix 1**) there is an expectation that this review will conclude that the two colleges should merge.

As part of the merger process, the Council has been asked by CRC to provisionally indicate by the end of March whether it is willing for CRC to take on the loan currently given to HRC. CRC has committed to taking on the current loan to HRC on the same terms as originally agreed with HDC.

By HDC giving provisional agreement to the transfer of the loan, this will allow CRC to:

- produce a “merged” business plan by the end of March,
- undertake relevant due diligence in May, and
- for the Council, along with other lenders, to give their final decision on transfer in June.

Both colleges will then be able to make the relevant resolutions in respect of dissolution and acceptance of assets and liabilities by August. A final decision by HDC in respect of agreeing to the loan transfer will be made in June; following satisfactory legal agreement (including right of assignment), due diligence and consultations with the external auditor.

Recommendation(s):

The Overview and Scrutiny Panel is invited to consider the report and provide relevant comment on the proposal to 'provisionally agree' that the loan given to Huntingdonshire Regional College by Huntingdonshire District Council be transferred to Cambridge Regional College following formal merger.

The Cabinet is

RECOMMENDED

To give provisional agreement that the loan given to Huntingdonshire Regional College by Huntingdonshire District Council be transferred to Cambridge Regional College following formal merger.

1. PURPOSE OF THE REPORT

- 1.1 To seek provisional agreement of members for the transfer of a loan, previously made to Huntingdonshire Regional College (HRC) to Cambridge Regional College (CRC) as a consequence of the merger of both colleges.
- 1.2 CRC has requested that the Council indicates as soon as possible its provisional agreement to the loan transfer to enable it to complete the “merged” business plan for both HRC and CRC in time to commence appropriate due diligence during April and May 2017.

2. BACKGROUND

- 2.1 In June 2013, Cabinet approved the lending of £1.5m to HRC for a period of 10 years to finance the development of facilities at the college. To finance the loan, the Council borrowed £1.5m for the same duration from the Public Works Loan Board at a rate of 2.24%; this was lent on to HRC at a rate of 3.34%. The security provided for the loan was made via a legal charge on the HRC site at California Road, Huntingdon.
- 2.2 As at the end of January 2017, £1.1m principal remained outstanding, to date HRC has not defaulted on any repayment.

3. MERGER OF HRC WITH CRC

- 3.1 Appended at **Appendix 1** is a report produced by CRC that details all relevant information in respect of the current situation facing HRC and its collaboration with CRC, including a timetable of key milestones. A summary is shown in paragraphs 3.2 to 3.5.
- 3.2 During 2016, both CRC and HRC were subject to an Ofsted inspection; where CRC received a Grade 2 “good” assessment and HRC received a Grade 4 “inadequate” assessment. Further, both colleges are currently subject to a Greater Cambridgeshire and Greater Peterborough Area Review which is due to be completed in late March 2017; there is an expectation that this review will conclude that the two colleges should merge. The target merger date is 1st August 2017.
- 3.3 Following the Ofsted report, the Principal and Vice-Principals of HRC left the college and now CRC is providing direct support to HRC through the sharing of the same Principal and Interim Chief Financial Officer.

LOAN TRANSFER

- 3.4 Under the terms of the loan agreement, a merger of this nature would be considered a default event and the Council would be in its right to require full repayment. However, CRC have requested that the loan is transferred to them in line with the original loan agreement.
- 3.5 At this time, provisional agreement by members is sought to agree the transfer of the loan to CRC to enable CRC to produce a “merged” business plan for both colleges which can be used to undertake relevant due diligence. The Council will be required to make a final decision in June to enable:
 - HRC to pass and publish a resolution to dissolve, and for
 - CRC to pass and publish a resolution to accept the assets and liabilities of HRC.

4. COMMENTS OF OVERVIEW & SCRUTINY

- 4.1 The report on the provisional agreement for the transfer of a loan, previously made to Huntingdonshire Regional College (HRC), to Cambridge Regional College (CRC) as a consequence of the merger of two colleges was presented to the Panel.
- 4.2 A Member commented that they thought the Council are profiteering from further education as the loan was provided to HRC at a higher rate than was borrowed at. However it was explained that this had to be done due to State Aid Rules otherwise the Council are unable to provide the college with a loan.
- 4.3 The Panel agreed that Cabinet should give provisional agreement that the loan given to HRC should be transferred to CRC following a formal merger.

5. RISKS

- 5.1 As with any merger, there are risks associated where assets and liabilities are brought together. However, it is fair to say that the financial position of both colleges is not ideal but taking into account the fact that:

- the Area Review (3.2) is likely to propose the merger of both colleges,
- Ofsted has given a Grade 2 and Grade 4 assessment for CRC and HRC respectively,
- HRC's financial position is weak and without support can potentially have solvency/liquidity issues in the short term future,

.....it is likely that the merger will take place.

- 5.2 CRC are currently liaising with Lloyds Bank plc as the only other lender and seeking their provisional approval for the merger; The amount of loans outstanding as at 31st July 2016 was approx. £6.2million (19% of turnover) and has made all due repayments on time since inception. CRC are about to appoint a firm (short listed by Lloyds) for Financial Due Diligence which will provide stakeholders, including banks, the comforts around the financial forecast.
- 5.3 However, CRC is currently forecasting an operating surplus (before restructuring costs) for 2016/17 and is producing a 5-year business plan for the merged colleges. At this time, the draft financial/business plan shows:

Financial Year	CRC - Without Merger	CRC - With Merger
2016-17	£600k - Surplus	-£300k - deficit
2017-18	£512k	£480k
2018-19	£1.1m	£1.2m
2019-20	£1.2m	£1.3m
2020-21	£1.2m	£1.3m
2021-22	£1.2m	£1.3m

- 5.4 Members should also note that if the Council gives provisional approval for the transfer of the loan, that security remains on the current HRC building. For the final report where formal approval for the transfer will be requested (June 2016), a valuation of the security will have been carried out to confirm the value of the security exceeds the loan principal outstanding; the cost of this valuation will be expected to be met by CRC along with any incidental legal costs.

6. TIMETABLE FOR IMPLEMENTATION

- 6.1 The target proposed merger date for CRC and HRC is the 1st August 2017. A detailed timetable of milestones/deliverables is shown in **Appendix 1** and a summary of the key milestones is shown below:

Milestone/Deliverable	Date (2017)
• HDC provisional agreement to transfer of loan from HRC to CRC	March
• Completion of merged three year business plan	March
• Completion of legal and financial due diligence	May
• Agree ongoing lender position with lenders	June
• HRC & CRC pass and publish respective resolutions in respect of HRC dissolution and CRC acceptance of HRC assets and liabilities	End of June
• HRC legal entity dissolves	1 st August

7. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES

- 7.1 It is considered that this links to the following elements of the Corporate Plan

- Enabling Communities
 - Support people to improve their health and well-being.
- Delivering Sustainable Growth
 - Develop a flexible and skilled workforce.

8. LEGAL IMPLICATIONS

- 8.1 The existing Loan Agreement is secured by way of a legal charge against the HRC site and is therefore protected. The existing Loan Agreement does not permit the loan to be transferred and the proposed merger will therefore trigger repayment of the outstanding loan amount.

Following merger

- 8.2 HDC have been asked by CRC to transfer the outstanding loan amount to the CRC upon merger of the respective colleges. In legal terms this will involve (subject to HDC approval), a new Loan Agreement which would need to be entered into by CRC simultaneously with the release of the existing Loan Agreement with HRC and registration of the new Legal Charge with CRC against the existing HRC site.
- 8.3 CRC upon merger will need to own the freehold of the HRC site and evidence of the legal title will need to be provided before the release of the HRC existing legal charge and creation of the new legal charge will be entered into. All transactions must take place simultaneously to ensure that the existing legal charge is not released until the new legal charge is in place which is secured against the legal title of the HRC site.
- 8.4 The new legal charge to be secured against the HRC site must be a first legal charge against the HRC site to ensure adequate security for the repayment of the loan amount throughout the term of the loan. It is also recommended that there is provision in the legal charge that no further charges are to be registered

against the HRC site without the prior written consent of HDC which again will be protected by a restriction on the title to the HRC site.

- 8.5 The loan falls under the wellbeing powers (section 2 of the Local Government Act 2000).
- 8.6 CRC has an existing lender Lloyds Bank on the CRC site and consideration needs to be given to the due diligence carried out by the Due Diligence firms once the reports are available, including the structure proposed for the merger.
- 8.7 Prior to final agreement by HDC (expected June 2017); relevant confirmation will be sort in respect of State Aid, assignment and considerations of the external auditor.

9. RESOURCE IMPLICATIONS

- 9.1 There are no direct resource implications arising from this report as a consequence of members giving provisional agreement to the transfer of the HDC loan previously given to HRC to CRC.
- 9.2 Security of the loan will be held on the current HRC building and CRC has committed to meeting the same loan terms as HRC.

10. REASONS FOR THE RECOMMENDED DECISIONS

- 10.1 By transferring the loan from HRC to CEC, the Council will be supporting the local community in the continued provision of further education in Huntingdon and the surrounding area.

11. LIST OF APPENDICES INCLUDED

Appendix 1 – CRC/HRC Merger Update for HDC

BACKGROUND PAPERS

None

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