

**Report to the Executive Board – 30 November 2004**

**Policy to be adopted on the Provision of Guarantees by the Council**

<b>Report of:</b>	Finance & Corporate Services Strategic Director	<b>WARDS AFFECTED:</b> All
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<b>Lead Member Responsible:</b>	Councillor Alex Hollingsworth	
<b>Scrutiny Committee Responsibility:</b>	Finance	
<b>Key Decision:</b>	Yes	
<b>SUMMARY AND RECOMMENDATIONS</b>		
<b>Staffing Implications</b> The proposal has no staffing implications.		
<b>Financial Implications</b> As set out in the report		
<b>Recommendations</b> The Executive Board is recommended to adopt guarantee policy 2 but note that the ability to act as guarantor will depend on the amount of the guarantee and the resources available.		
The Executive Board is recommended to agree that providing such a guarantee is likely to achieve the improvement of the social, economic and environmental well-being of the residents of Oxford who may benefit from the scheme.		

## 1. Background

1.1. The City Council has recently been asked to give a guarantee of the St Margarets Institute ("SMI") guaranteeing to St John's College the payment of rental payments under a proposed lease of the SMI premises.

1.2. It is necessary to consider the SMI guarantee in a wider context.

## 2. Objective of the Proposal

The objective of the proposal is to create clear guidelines by which to assess all future requests for guarantees.

## 3. Legal Background

3.1 In the past the Council has granted a range of financial guarantees of community associations. As the consequence of two legal actions decided in the 1990's involving other councils, it was generally felt that Councils may not have the power to grant guarantees and the practice appears to have ceased.

3.2 With the passing of the Local Government Act 2000 (the Act) and the creation of the so-called "well being" powers set out in section 2 of the Act, it is now considered possible for local authorities to validly give financial guarantees where the guarantee supports the social, economic or environmental well-being of the local community.

## 4. Financial Implications and Guidelines.

4.1 In the past, the Council has been approached by organisations generally having the following characteristics:

- Community Associations running a community facility
- No fixed, guaranteed or regular income or
- Income dependent on number of members prepared to subscribe/regular earnings based on bar takings.

4.2 A risk analysis of these organisations based on prudent accounting practice, must therefore assume that at some point, this type of organisation is most likely to be in default of the underlying financial obligations which a Council guarantee supports. This means that the Council must consider that it will be called upon during the life of the guarantee to pay the full amount of the guarantee.

4.3 It is prudent accounting practise to set aside the full amount of any guarantee as a revenue or capital sum depending on the nature of the guarantee required.

4.4 Therefore moneys provided for as part of a guarantee arrangement will not be available for other capital projects or revenue expenditure and given the shortage of Council resources, it is unlikely that the Council will be able to act as guarantor very often.

## **5. Staffing**

There are no staffing consequences for this proposal.

## **6. Recommendation**

There are two alternative approaches to requests for guarantees.

### Guarantee Policy 1

Oxford City Council will not offer guarantees under any circumstances.

### Guarantee Policy 2

(a) Any request for a guarantee must be supported by a full business plan and three year cash flow projection for the organisation making the request.

(b) The Council will only agree to give a guarantee if there is adequate resource to support the full amount guaranteed.

(c) Any guarantee will be limited in time to a maximum of 5 years or a lesser period where appropriate.

(d) All guarantees will be supported by a counter-indemnity provided to the Council by the organisation seeking the guarantee. Any amounts paid by the Council under any guarantee, will be recoverable in full as a debt due from the relevant organisation.

The Executive Board is recommended to adopt guarantee policy 2 but note that the ability to act as guarantor will depend on the amount of the guarantee and the resources available.

<p>This report has been seen and approved by: Sarah Fogden, Business Manager, Financial and Asset Management; Councillor Alex Hollingsworth. Portfolio Holder for Financial Stability and Asset Management</p>
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There are no background papers