

Corporate Scrutiny Committee

(this is a special meeting solely to review a call-in of a Cabinet decision)

09:00	Monday, 10 June 2013	Committee Room 2, County Hall, Chelmsford, Essex
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Quorum: 4

Membership

Councillor J Young
Councillor W Archibald
Councillor S Barker
Councillor M Buckley
Councillor G Butland
Councillor J Deakin
Councillor R Hirst
Councillor R Lord
Councillor M Mackrory
Councillor V Metcalfe
Councillor P Oxley
Councillor M Page
Councillor J Pike
Councillor C Seagers

Chairman

For information about the meeting please ask for:

Robert Fox, Governance Officer
Graham Hughes, Committee Officer
Telephone: 01245 430935
Email: graham.hughes@essex.gov.uk



Essex County Council

Essex County Council and Committees Information

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972.

Most meetings are held at County Hall, Chelmsford, CM1 1LX. A map and directions to County Hall can be found at the following address on the Council's website:
<http://www.essex.gov.uk/Your-Council/Local-Government-Essex/Pages/Visit-County-Hall.aspx>

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The Council Chamber and Committee Rooms are accessible by lift and are located on the first and second floors of County Hall.

If you have a need for documents in the following formats, large print, Braille, on disk or in alternative languages and easy read please contact the Committee Officer before the meeting takes place. If you have specific access requirements such as access to induction loops, a signer, level access or information in Braille please inform the Committee Officer before the meeting takes place. For any further information contact the Committee Officer.

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The agenda is also available on the Essex County Council website, www.essex.gov.uk. From the Home Page, click on 'Your Council', then on 'Meetings and Agendas'. Finally, select the relevant committee from the calendar of meetings.

Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

Part 1

(During consideration of these items the meeting is likely to be open to the press and public)

		Pages
1	Apologies and Substitution Notices The Committee Officer to report receipt (if any)	
2	Constitution Terms of Reference and Membership To consider a report (CSC/01/13) on updated Terms of Reference and membership.	5 - 10
3	Declarations of Interest To note any declarations of interest to be made by Members	
4	Call-in: Local Authority Mortgage Scheme To consider a report (CSC/02/13) from the Scrutiny Officer.	11 - 36
5	Date of Next Meeting To note that the next meeting will be held at 11am on Tuesday 25 June 2013 in Committee Room 2 at County Hall.	
6	Urgent Business To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

7

Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

		AGENDA ITEM 2
		CSC/01/13
Committee:	Corporate Scrutiny Committee	
Date:	10 June 2013	
<u>Constitution Terms of Reference and Membership</u>		

Background:

At the meeting of Full Council on 14 May 2013 amended Articles 9 and 10 of the Constitution were approved. These included updated Terms of Reference and membership for Council committees.

Recommended:

That the Committee note:

- (i) The extract copy of a new Article 9 of the Constitution approved by Full Council on 14 May 2013, which lists the Terms of Reference for the Corporate Scrutiny Committee, formerly known as the Executive Scrutiny Committee, (reproduced overleaf in Appendix A) and the new membership of the Committee, including the Chairman for the first year (reproduced overleaf in Appendix B);
- (ii) That, after the first year, it is currently proposed that the Chairmanship of the Committee will rotate to the Leader of the Liberal Democrat Group for the second year and then to the Leader of the United Kingdom Independence Party Group in the third year.

EXTRACT FROM NEW ARTICLE 9 OF THE CONSTITUTION APPROVED BY FULL COUNCIL ON 14 MAY 2013

9.5.1 Corporate Scrutiny Committee

Membership: 14 Members

- The overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy of the Authority
- Financial Resources (revenue and capital), precepts and levies
- Community Leadership and Community Strategy
- Community Budgets and Essex Partnership Board
- Equalities and Diversity
- Policy and Strategy Team
- External and internal communications
- Customer services (Contact Centre, Member Enquiries)
- Capital Programme Governance
- Procurement and commercial services
- Asset management and Facilities Management
- Legal services
- Performance and Organisational Intelligence
- Essex Transformation Programme
- Audit and Risk
- Information services and technology
- Human Resources and employee services
- Business Support

Continued overleaf....

- Essex Shared Services
- Property Strategy
- Traded services
- Emergency Planning

APPROVED BY FULL COUNCIL ON 14 MAY 2013

Membership of Committees (extract)

CORPORATE SCRUTINY COMMITTEE

Chairman:

Julie Young

**CORPORATE
SCRUTINY COMMITTEE
(14)**

(8 Con : 1 UKIP: 2 Lab: 2
LD : 1 NA)

William Archibald

Susan Barker

Malcolm Buckley

Graham Butland

Jude Deakin

Roger Hirst

Roger Lord

Mike Mackrory

Valerie Metcalfe

Pierre Oxley

Mick Page

Joe Pike

Colin Seagers

Julie Young

Continued overleaf....

Conservative Subs:

John Knapman

Jenny Chandler

Labour Sub:

Tony Durcan

[subsequently advised

LibDem Sub:

Anne Turrell]

		AGENDA ITEM 4	
		CSC/02/13	
Committee:	Corporate Scrutiny Committee		
Date:	10 June 2013		
Call-in: Local Authority Mortgage Scheme (FP/149/02/13)			

Report by the Scrutiny Officer:

Attached is a copy of the template for this call-in.

Councillor Finch, as the Cabinet Member responsible for the decision, has been invited to attend.

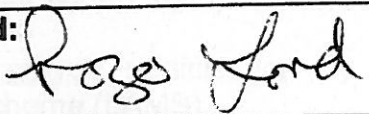
Councillor Lord will be given the opportunity to make his case for calling-in the Local Authority Mortgage Scheme. Any witnesses Councillor Lord wishes to call will be given a maximum of three minutes to address the Committee, subject to the discretion of the Chairman.

Councillor Finch will then be given the opportunity to answer the case and to seek to justify the decision. Any witnesses Councillor Finch wishes to call will be given a maximum of three minutes to address the Committee, subject to the discretion of the Chairman. Members will be given the opportunity to ask questions prior to a vote being taken.

In terms of the options available to the Committee the following is an extract from the Constitution 19.14:

- (xiii) Having considered the decision, the Committee may refer it back to the decision taker setting out in writing its concerns or refer the matter to the full Council also with a record of its concerns. Upon a referral to a decision taker, the decision shall be reconsidered within five clear working days amending the decision or not before adopting a final decision
- (xiv) If the Committee does not refer a decision to either the decision taker or the Council, the decision shall take effect at the conclusion of the meeting of the Committee.

Notification of Call-in

Decision title and reference number Forward Plan reference number FP/149/02/13 Local Authority Mortgage Scheme	
Cabinet Member responsible Cllr David Finch	Date decision published 21 st May 2013
Last day of call in period 24 th May 2013	Last day of 10-day period to resolve the call-in
Reasons for Making the Call in It is not the place of the County Council or Borough/District Councils to replace either banks or building societies to be involved in mortgage lending. The Governor of the Bank of England, Sir Mervyn King has warned against the governments existing Help to Buy Mortgage Scheme saying "I am sure there is no place for this scheme in the long term" The sub-prime defaults, causing so many problems for banks; were caused by highly leveraged borrowing such as this scheme encourages at 95%. A extra £7 million would in balance sheet terms be seen as a potential liability to the council. The cut off point of £250,000 is much higher than the average person would expect to pay as a first time buyer or for a starter home. To some degree this could encourage local property price inflation. The shortage of affordable housing can be addressed in many other ways such as supporting Housing Associations to supply affordable rental properties at much lower cost.	
Signed: 	Dated: 24 th May 2013
For completion by the Governance Officer	
Date call in Notice Received 24 MAY 2013	Date of informal meeting 29 MAY 2013
Does the call in relate to a Schools issue No	If yes, date when Parent Governor Reps and Diocesan Reps invited to the meeting N/A
Date of Executive Scrutiny Committee Meeting (if applicable) 10 JUNE 2013	Date call in withdrawn / resolved

CALL IN – LOCAL AUTHORITY MORTGAGE SCHEME

Informal meeting held on Wednesday, 29 May 2013

Present

Councillor Finch (Cabinet Member: Leader), Councillor Lord

Officers: Peter Fairley, Margaret Lee, Robert Fox

Introduction

This decision FP/149/02/13 had been called in by Councillor Lord on 24 May 2013. Councillor Lord raised the following seven issues:

- His view that it is not the place of the County Council or Borough/City/District Councils to replace either banks or building societies to be involved in mortgage lending
- Sir Mervyn King, the Governor of the Bank of England has warned against governments' existing *Help to Buy Mortgage Scheme* saying "I am sure there is no place for this scheme in the long term"
- The sub-prime defaults, causing so many problems for banks, were caused by highly leveraged borrowing such as the LAMS scheme encourages at 95%
- An extra £7million would, in balance-sheet terms, be seen as a potential liability to the Council
- The cut-off point of £250,000 is much higher than the average person would expect to pay as a first-time buyer or for a starter home
- To some degree the scheme could encourage local property price inflation
- The shortage of affordable housing can be addressed in many other ways such as supporting Housing Associations to supply affordable rental properties at much lower cost

In summing up Councillor Lord reiterated his objection, in principle, that, through the LAMS, the County Council will try and influence activity best served in the free market. The County Council, he stated, should be trying to assist those who cannot get housed. The County Council is not a housing authority, unlike District Councils who have an obligation to provide housing and releasing land for development.

Councillor Lord has no personal or pecuniary in the decision.

General response by Councillor Finch and Margaret Lee

The following points were made:

- Councillor Lord reiterated his view that the Authority should not be entering the mortgage market. Councillor Finch responded that the Council will not be mortgage lending. The Authority can get involved in the LAMS because it is of benefit to the

community at-large and around 6,000 residents could benefit from the scheme. People applying to the scheme will be subject to the same stringent credit checks as they would if applying to a bank or building society

- Responding to a further point relating to Mervyn King's statement from Councillor Lord that the Government is pushing their own scheme with an express aim to take over 10% of the mortgage market, which is an extension of current borrowing plans Councillor Finch reiterated that the Council will not be in the business of mortgage lending, but assisting people with deposits. Councillor Finch stated that Sir Mervyn King is correct in stating that the scheme is not a long-term option
- The £7million will not be a liability – it will go onto the reserve. Margaret Lee explained that ECC has established various scenarios with regard to interest rates and different rates of default. The £7m will sit on the balance sheet as an investment. A provision for bad debt will be created to reflect the possibility of default – this is a prudent course of action. The £7million will be part of the assets of the Authority, therefore, and not a liability The Council does not borrow against its asset base. Its borrowing requirement is covered by the Prudential Code incorporated into the Budget Report to Council each year. Councillor Finch stated that this year is the third year in which there has been no increase in the Council Tax thus showing the Authority recognises its responsibilities to the local tax payer.
- Councillor Finch stated £250,000 is the ceiling, however the houses the Authority sees the scheme operating with are lower cost houses and flats. It is sometimes difficult for buyers to fund the deposit on these homes and this is where the Authority wishes to assist. Average house prices across Essex are similar with specific areas having lower or higher prices. The most likely house price range where assistance will be given is £105-£110,000 for flats; £170-£190,000 for other properties
- With regard to local property price inflation Councillor Finch stated that scheme would not fuel property price inflation in the county
- Responding to Councillor Lord who stated his concern that the 95% mortgage borrower through this scheme will have an advantage over other borrowers – an advantage effectively subsidised by ECC, Councillor Finch stated the scheme is trying to assist and facilitate people owning their own homes, as we are a society of homeowners. Margaret Lee also pointed out that the scheme was open to all first time borrowers buying a house in the relevant areas, if one borrower chose to not take advantage of the guarantee scheme, that would be their choice. It was acknowledged that Housing Associations have a part to play in terms of the provision of affordable homes
- With regard to assisting those who cannot get housed Councillor Finch stated that help is available from the County Council to assist people through grants to voluntary organisations

Outcome

Councillor Lord confirmed he wished to refer the LAMS to the Corporate Scrutiny Committee at a meeting to be called within 10 clear working days of the call-in. The meeting will take place on Monday, 10 June 2013 at 9.00 a.m. in Committee Room 2, County Hall.

Robert Fox

30 May 2013

AGENDA ITEM 4

Report to Cabinet Cllr David Finch	Forward Plan reference number FP/149/02/13
Date of meeting 21 May 2013 Date of report	County Divisions affected by the decision All divisions covering participating Borough, City or District councils.
Title of report Local Authority Mortgage Scheme	
Report by Cllr David Finch	
Enquiries to Margaret Lee, Executive Director for Finance	

1. Purpose of report

- 1.1. To seek agreement from Cabinet for ECC to participate in the Local Authority Mortgage Scheme (LAMS).

2. Recommendations

It is recommended that Cabinet:

- 2.1. Approves participation by the Council in the Local Authority Mortgage Scheme (LAMS).
- 2.2. Agrees a total indemnity value of up to £7million be allocated to LAMS.
- 2.3. Agree that participation will be by
- (a) Providing £1m to each Borough/City/District Council which has so far agreed to run a cash backed local authority mortgage scheme and commit £1m of its own money. The Borough/City/District Council will determine eligibility criteria for the scheme as it is the local housing authority for the area.
 - (b) Providing a £2m County Council cash-backed local authority mortgage scheme which is available only for postcodes which
 - a. exclusively include properties in Essex and

- b. Include some properties in the area of the participating Borough/City/District Council and some properties which are not.
- 2.4. Agrees that eligibility for the County Council scheme referred to in 2.3(b) will be limited to people borrowing £250,000 or less.
- 2.5. Agrees to fund up to £7million from the Council's Reserve for Future Capital Funding, and that a capital scheme to a maximum value of £7million for LAMS be included in the Council's Capital Programme for 2013/14.
- 2.6. Authorises the Executive Director for Finance, in consultation with the Monitoring Officer and the Leader of the Council to:
- determine the allocation of the £2million County Council scheme funding to specific lenders, including Lloyds TSB
 - determine the qualifying post codes for the County Council scheme
 - agree the detailed financial and contractual arrangements with Lloyds TSB and any other LAMS lenders
 - agree the detailed financial and contractual arrangements with each District / Borough Council which participates in LAMS and to whom the Council provides support as mentioned in paragraph 2.3(a) above
- 2.7. Authorises the Monitoring Officer to give opinion letter(s) as required to any LAMS lender.
- 2.8. Approves the Council to enter into a deed of indemnity with the Monitoring Officer in respect of each opinion letter she gives, the form of such deed to be approved by the Executive Director for Finance.

3. Background

- 3.1. The turmoil in the financial and banking market has had a severe impact on both the local economy and on local housing. Whilst the overall forecasts are for a modest underlying improvement over the next two years, the wider economic picture continues to represent a challenging backdrop for the UK housing and mortgage markets. Conditions are expected to remain challenging but there is likely to be a discernible but modest improvement in 2013 despite a still subdued, but slowly improving, UK economy.
- 3.2. The on-going constraints are a particular problem for first-time buyers, especially those unable to provide a substantial deposit. According to the Building Societies Association (BSA), one in four prospective first-time buyers believe it will take them at least 10 years to have a deposit in place and one in five believe they will still be renting or living with family in 2022. While mortgage insurance, shared ownership, and product innovation can all potentially play a part, none will provide a "magic bullet" to normalise the mortgage market for first-time buyers. This will continue to be a gradual process as confidence in funding markets and lending decisions is restored in the light of a more stable market environment. The preference for low loan to value mortgages has improved although it is likely to continue to restrict first time buyers with a lower deposit in the current financial environment.

- 3.3. Supporting the housing market is an integral part of the government's wider economic growth agenda and has supplemented its housing strategy with a number of measures to boost house rebuilding. FirstBuy was extended to March 2014; a debt guarantee scheme has been introduced; and a key policy development for the UK economy has been the launch in August 2012 of the Funding for Lending Scheme (FLS). These alongside a number of other initiatives, including the Local Authority Mortgage Scheme, are playing an important role in shaping the near-term profile of housing and mortgage market activity.
- 3.4. Overall there are grounds for some optimism although there remains concern about some areas of the housing market, particularly the low percentage of first time buyers and large regional variations. Raising a deposit is still the biggest barrier for all UK home buyers. There are many positive signs and it remains to be seen if there will be an improving and sustainable trend going forwards as any improvement is comparatively recent and from a low base.
- 3.5. As a result of the economic climate and the adverse effect on the local economy and the housing market, a number of Local Authorities are taking a proactive approach in supporting the local area, and addressing pressing issues in increasing the supply of affordable housing.

4. Current Situation

- 4.1. In present market conditions most mortgage lenders are typically only prepared to lend a maximum of 75% - 80% loan to value (LTV), even if the applicant can afford a 95% mortgage. This means the applicant requires a substantial deposit, e.g. a first time buyer purchasing a property valued at £150,000 would have to provide a deposit of between £30,000 and £37,500. Many potential first time home-buyers do not have the funds needed for the deposit.
- 4.2. To address the shortage in supply of affordable housing to those who need it, and to help the housing market and the local economy in general one option would be for the Council to issue mortgages to potential home-buyers. However, the Council has limited financial resources available for this purpose, and also limited staffing resources and expertise in this area to directly manage mortgages.
- 4.3. Rather than entering into the residential mortgage market the proposal is to enter into partnership with residential mortgage lenders, with the remit of minimising the financial impact on the Council, and at the same time taking advantage of the expertise already available from existing mortgage providers.

5. The Local Authority Mortgage Scheme (LAMS)

- 5.1. This national scheme is aimed at first time buyers, providing help for potential buyers who can afford mortgage payments - but not the initial deposit – to get on to the property ladder. The scheme is standard and there is very little flexibility for Local Authorities to vary the terms set out by the lender. Under

the scheme, the participating Council will be able to specify three qualifying criteria:

- 5.1.1. the maximum level of indemnity (ie the size of the scheme, which can be between £1m and £2m) (see para 6.2)
- 5.1.2. the maximum loan size (based on 95% of property price) (see para 6.7) and
- 5.1.3. the qualifying post codes (the scheme will be open to the purchase of any property within these postcodes.(see paras 6.4 – 6.6)

It is proposed that that where the Borough, City or District runs the scheme they will determine the participating criteria as the council which is managing the scheme and the local housing authority. The County Council will determine the criteria for its own scheme.

- 5.2. If a potential buyer meets the strict credit criteria applied by the lender, and meets the criteria set out by the Council to qualify for a mortgage under the scheme, the Council will provide an indemnity to the value of the difference between 75% of the value of the property and the amount borrowed. The potential buyer will thereby obtain a mortgage of up to 95% LTV on similar terms as a 75% mortgage which will enable people to borrow with only a 5% deposit – if they meet the other lending criteria.
- 5.3. It should be stressed that the scheme does not promote reckless lending: it is essential that the applicant meets the standard lending criteria as set out by the lender, and that the higher LTV mortgage is affordable.
- 5.4. The indemnity will be in place for a fixed 5 year period for each mortgage granted under the scheme, which may be extended for a further 2 years if a mortgage were in arrears in the last 6 months of the initial 5 year period.
- 5.5. Assuming no default by the buyer, the indemnity liability would terminate on the earliest of the end of the agreed indemnity period which is five years from the purchase date or an early repayment of the mortgage. (eg if the buyer subsequently moves house). This can be extended by up to two additional years if the mortgage is in more than 90 days arrears by the end. The fixed-term deposit would be repaid to the Council at the date of maturity, plus interest due.
- 5.6. The indemnity would only be called upon if a loss is crystallised by the lender, which would only arise if the property is repossessed. By way of example, a property valued at £150,000, with a mortgage of £142,500 would have a local authority indemnity of up to £30,000. If the property is sold for £100,000, net of costs, the full value of the £30,000 indemnity would be requested by the lender. If the property is sold at £130,000 net of costs, i.e. an actual loss of £12,500 is incurred by the lender; £12,500 would be requested from the Local Authority. Any loss in excess of the value of the indemnity would be borne by the lender.

- 5.7. The table below shows the potential number of first time buyers that the scheme may initially assist based on £2m advance, assuming an average purchase price of £150,000.

Total Local Authority Indemnity	£2,000,000
Assumed Property value	£150,000
5% Deposit	£7,500
95% Mortgage	£142,500
Local Authority Indemnity	£30,000
Potential number of mortgages	66

- 5.8. The participating Council, which will be the County Council for its own scheme and the relevant Borough/City/District Council for the other schemes will place a 5-year deposit with the lender at the start of the scheme. The deposit will be for the full £1m or £2m. The deposit will be placed for 5 years from the date upon which the last mortgage backed by the scheme was granted. After that date it is likely that a smaller sum will be need to be placed on deposit to cover the mortgages of any participants who are in arrears after 5 years. The term of the indemnity – i.e. 5 years (with the possibility of a further 2 year extension if the mortgage is in arrears at the end of the initial 5 years) - and may have conditions attached. The Council will receive interest at a variable rate for 5-years. The interest rate paid will be the commercial deposit rate plus a premium (the premium may vary between lenders; for Lloyds TSB the premium is 0.70%).
- 5.9. In accordance with legislation, the lender will not have a legal charge over the deposit. In the event of an indemnity being called, and an amount being payable by the Council to the lender, a request for payment would be made by the lender. The Council will have the option to pay within 30 days or deduct from the cash deposit at the end of the fixed term.
- 5.10. Once these parameters have been set, the mortgage lender will manage the operational side of the scheme without any direct input from the Council.
- 5.11. Sector Treasury Services Ltd will undertake an annual audit of the scheme to ensure both parties are fully compliant with the agreement. Due to the changing environment, further legal and/or accounting advice may be required during the life of the LAMS. Sector Treasury Services Ltd will obtain updated advice on behalf of participating authorities. Any additional fees incurred in this respect will be agreed with all parties in advance.

6. Essex Proposal

- 6.1. The Local Authority Mortgage Scheme contributes to the Council's corporate vision in The EssexWorks Commitment 2012-2017 by contributing to the economic success of the county.
- 6.2. It is proposed that the Council adopts a £2million county scheme, and provides £1million match funding to each of Essex's District / City / Borough Councils that decide to adopt a scheme. At the time of writing, five of the councils have expressed an interest in adopting a scheme. The maximum

indemnity value for the County Council would therefore be £7 million. If further District / Borough Councils subsequently wish to adopt a scheme with match funding from ECC, members will be updated accordingly in the quarterly finance report.

- 6.3. Because of the £2m limit per authority, the Council will provide the funding to the District or Borough Council. There will be a service level agreement between the County Council and each participating District / Borough council setting out the relationship and confirming that the costs, liabilities and returns will be split 50:50 between the two councils. the relevant share of risk/return in respect of the £1million support.
- 6.4. Because it is the District, City, or Borough Council which will enter into the scheme paperwork, the individual schemes can only cover postcodes which are wholly within the area of the participating district. Some postcodes straddle district boundaries and therefore include properties outside the participating district. No district can cover these split post codes.
- 6.5. To cover these postcodes it is proposed that the County Council promotes its own scheme which covers the 5% of postcodes which straddle the boundary between District, City or Borough Councils running their own scheme. However, the national conditions of the scheme will only permit the County Council scheme to cover postcodes which are wholly in Essex. The County Council scheme cannot therefore include postcodes which straddle boundaries with unitary authorities or other counties.
- 6.6. The County Scheme would therefore cover a narrow linear band of postcodes at the join between participating districts / boroughs. This may be considered difficult to understand by residents. A £2m scheme would mean that 28% of the available indemnity is concentrated in approximately 5% of the postcodes. This would not lead to any greater benefit to individuals but would in practice make it easier for people to participate in the scheme if they wish to buy a property in a postcode covered by the County Council scheme.
- 6.7. Setting the maximum loan size will influence the number of citizens who can be assisted and the type of property they can access. There is a wide variation of property prices across Essex. Whilst the average value of a property purchased by a first time buyer is approximately £167,000 for Essex as a whole, in certain areas it is as high as £222,000. If the maximum loan value is set at a relatively high level it will reduce the risk of excluding people from the scheme if they live in a high priced area. Their review of the schemes that have been operating so far indicates that the stringent credit and affordability criteria applied by the lenders, in effect, regulates the scheme and mortgage applications are not extending to high upper limits. It is, therefore, proposed to set the maximum loan value at £250,000 for the County scheme, which would effectively result in a maximum property value of approximately £263,000. However, the maximum loan size for each District / Borough council scheme would be a matter for decision by the relevant District / Borough council, and may, therefore, vary from the £250,000 proposed for the County scheme.

7. Financial Implications

7.1. Current advice from Sector regarding the accounting treatment for LAMS is that:

- The support provided under LAMS would constitute a financial guarantee, and as a result of which the Council would be required to recognise a liability by charging the 'fair value' of the guarantee to the Comprehensive Income and Expenditure Statement; and
- Regulation 25 (1)(c) of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 defines that "the giving of a loan, grant or other financial assistance to any person, whether for use by that person or by a third party, towards expenditure that would if incurred by the Authority, be capital expenditure", shall be treated as being capital expenditure.

Therefore, the deposit into the Local Authority Mortgage Scheme – whether directly or by paying it to a Borough, City or District Council would be classed as capital spend.

7.2. The Council's 2013/14 Prudential Indicators, Treasury Management Strategy and MRP Policy allows for this treatment as per the extract below:

- Where loans are awarded by the Council that are classified as capital expenditure in accordance with capital financing regulations, the Capital Financing Requirement (CFR) will increase by the amount of the total indemnity. When any such loans are repaid, the amounts received will be classified as capital receipts. Where these capital receipts will be applied to reduce the CFR, there will be no revenue provision made for the repayment of the debt liability.

7.3. It is proposed to use the cash backed option under which the Council will pay the District Borough or City Council cash which that council will deposit with the mortgage lender. The lender will retain the money for five years from the date of the grant of the last mortgage and there may be a requirement to deposit a reduced sum for a further 2-3 years if any of the borrowers are in arrears at the end of this period. The deposit is an integral part of the mortgage lending, and is treated as capital expenditure and a loan to a third party. As this is a 5 + 2 year arrangement and the funds are due to be returned in full on maturity or an early repayment of the mortgage (whichever is earliest), there is no need to set aside prudent provision to repay the debt liability and hence no MRP application. On maturity the money returned in 5 years' time will be classed as a capital receipt.

7.4. The Council will receive a premium interest rate for the risk associated with the scheme, which will be added to the commercial deposit rate. This premium will be set aside in an earmarked reserve to contribute towards funding any future potential liabilities if borrowers default. The interest could be less than the liabilities.

- 7.5. The lender does not have a legal charge over the Council's deposit and will therefore, in the event of a default, request payment from the Council. The Council will have the option to pay within 30 days or deduct from the cash deposit at the end of the fixed term.
- 7.6. Any default by a borrower will trigger a call on the indemnity and a payment of the amount of the borrower's default, but capped at relevant sum of up to 20% of the initial property price. LAMS is relatively new, the first schemes being less than two years old, but so far there have been no defaults. Prevailing market default rates are currently 0.3% per annum according to the Council of Mortgage Lenders). Defaults at this rate would be covered by the premium interest rate that the underwriting deposit attracts. Sector estimates that the default rate applicable to the relevant client group may be up to 2% per annum.
- 7.7. At a default rate of 2% the losses incurred would exceed the value of the additional premium of 0.7% earned by the deposit placed with the scheme. Given the relative resilience of Essex's economy, it might be expected that the default rate would be closer to 0.3% than 2%, however this remains a risk. A table detailing the impact of differing interest and default rates is attached as Appendix B. This shows that a £7m scheme could generate a surplus of £30,000 p.a. or if the default rate and the borrowing costs are higher and the investment returns are lower, it could cost £161,000 p.a. These figures are based on models and the actual costs (or returns) could be lower or higher than any of those quoted.
- 7.8. Compared to a similar mortgage outside LAMS, there is potentially a greater risk of the lender seeking to foreclose in the event of arrears whilst the Council's guarantee is in place prior to the 5 or 7 year cut-off points, in order to realise the value of the guarantee to the lender. However, FSA regulations make this unlikely.
- 7.9. A detailed Risk Assessment is attached as Appendix A.

8. Legal Implications

- 8.1. The Council has the power to enter into an agreement to indemnify a mortgagee making a loan on the security of a house. This power is contained in section 442 of the Housing Act 1985.
- 8.2. The Council has the power to provide the proposed support to District City and Borough Councils under the general power of competence contained in section 1 of the Localism Act 2011.
- 8.3. All LAMS lenders require the Council to sign an Indemnity Deed in a prescribed form. In addition, Lloyds TSB has particular requirements for the Council's Monitoring Officer to provide an Opinion Letter confirming that the Council has the power to enter into, observe and perform the terms and obligations required of it under the scheme; and for the Council to indemnify the Monitoring Officer in respect of any personal liability she may incur by providing the Opinion Letter. This indemnity will be granted by a deed

between the monitoring officer and the Council. The Council does have power to grant this indemnity under the Local Authorities (Indemnities for Members and Officers) Order 2004/3082.

- 8.4. The legal issues concerning state aid have been considered and it is considered that the fact that the beneficiaries of the scheme are individuals rather than businesses minimises the possibility of the scheme being considered to be state aid. Any state aid would be a purely incidental benefit to the banks, and lending will only be to people considered to be a good risk. The council will receive a commercial return on its cash deposit plus a premium and the scheme is therefore compliant with the market economy investor principle. The scheme has been developed in consultation with the State Aid advisors at the Department of Business Innovation and Skills which is the lead Government department on State Aid issues.
- 8.5. This is not an investment decision and so Financial Regulation 7.4.2 does not apply to require the deposit to be held in the name of the Council. This is important because most of the money will be deposited in the name of the relevant Borough, City or District Council.

9. Staffing and other resource implications

- 9.1. There are no direct HR implications resulting from this decision.

10. Equality and Diversity implications

- 10.1. An equality impact assessment is attached as Appendix C.

11. Background papers

- 11.1. LAMS Template Report
- 11.2. Herts Cabinet Paper 230412
- 11.3. The EssexWorks Commitment 2012-2017
- 11.4. Sector Data on Essex House Prices
- 11.5. 2013/14 Prudential Indicators, Treasury Management Strategy and MRP Policy



LAMS Risk Assessment

	Strategic Risk	Key Risk	Risk Rating	Likelihood	Impact	Preventative Measures	Notes
F1	Financial	Local Authority affordability	Moderate	Low	Moderate / High	Make adequate budget provision	For a cash backed guarantee it may be prudent that the interest earned on the deposit is set aside in a ring fenced reserve to be used to fund future potential liabilities in the event of default and the guarantee being called upon.
F2		Lending to sub prime applicants	Low	Low	Moderate	Eligibility for the scheme will use the lender's existing credit criteria	
F3		Applicant affordability	Low	Low	Moderate	Lenders will ensure the mortgage is affordable	
F4		Costs incurred in the event of the guarantee being called	Low	Low	Low	The number of repossessions by first-charge mortgage lenders in 2010 was 0.3% of all mortgages (Source – CML website). For each £1m, there is potential for loss of £3,000 if each default leads to a 100% loss of the value of the guarantee. For 95% LTV mortgages this may be higher, perhaps 1 – 2%. The cash backed guarantee will attract a premium investment return in the region of 4.1%, i.e. each £1m allocated to the scheme will earn £41,000.	No specific stats available for first time buyers only. For this purpose, it is assumed the full value of the guarantee will be lost in the event of default.

	Strategic Risk	Key Risk	Risk Rating	Likelihood	Impact	Preventative Measures	Notes
F5		Counterparty Risk (ie risks of depositing money with Borough/City/ District Council or with Lloyds TSB.	Low	Low	High	Partnership with highly reputable financial institutions for deposits. Ensure compliance with the TMSS	The cash backed mortgage support should not be seen as a straight forward deposit with a financial institution. Participating Local Authorities may be required to provide a “financial advance” to the participating mortgage lender (to support mortgages in the local economy), so the requirements of the scheme would always be slightly different to the usual investment principles.
R1	Reputation	Poor publicity / bad press re use of public monies	Moderate	Low	Low	Press Officer to liaise closely with local press. Promotion of benefits of the scheme, i.e. supporting the local housing market and local economy Good promotional material. Joint working with partners and Estate Agents.	Sector / participating mortgage lenders will support the promotional process.
R2		Repossession in the hands of the lender, therefore outside the Local Authority's area of responsibility	Moderate	Moderate	Low	Lender to inform Local Authority if and when an applicant is facing repossession. Local Authority may be able to support people to prevent repossession.	
R3		Poor publicity / bad press re possible repossession	Moderate	Moderate	High	Early notice from lender to the Local Authority if action is due to be taken Local Authority to assess alternative options	
O1	Operational	Housing market recovers and the scheme is no longer required	Moderate	Moderate	Low	The scheme will cease to exist. Guarantees already granted – for 5 years + a further 2 years if the account is 90+days in arrears at the end of 5 years - would remain in place.	

Potential net (surplus) / deficit based on alternative interest, borrowing and default rates**Current Rates**

2,000,000	7,000,000	Initial Deposit
(45,800)	(160,300)	Annual Interest at current rate 2.29% (1.89 +0.70 premium)
31,000	108,500	Assumed Annual Borrowing cost 1.55% (PWL B Fixed Certainty Rate as at 28/03/13)
6,000	21,000	Assumed Default Rate of 0.30% pa
<u>(8,800)</u>	<u>(30,800)</u>	Net (surplus) / deficit pa

Better rates

2,000,000	7,000,000	Initial Deposit
(64,000)	(224,000)	Annual Interest at 3.20% (2.50 + 0.70 premium)
20,000	70,000	Assumed Annual Borrowing cost 1.00%
6,000	21,000	Assumed Default Rate of 0.30% pa
<u>(38,000)</u>	<u>(133,000)</u>	Net (surplus) / deficit pa

Mid Rates

2,000,000	7,000,000	Initial Deposit
(50,000)	(175,000)	Annual Interest at 2.50% (1.80 + 0.70 premium)
30,000	105,000	Assumed Annual Borrowing cost 1.50%
20,000	70,000	Assumed Default Rate of 1.00% pa
<u>0</u>	<u>0</u>	Net (surplus) / deficit pa

Worse Rates

2,000,000	7,000,000	Initial Deposit
(34,000)	(119,000)	Annual Interest at 1.70% (1.00 + 0.70 premium)
40,000	140,000	Assumed Annual Borrowing cost 2.00%
40,000	140,000	Assumed Default Rate of 2.00% pa
<u>46,000</u>	<u>161,000</u>	Net (surplus) / deficit pa

Title of service being assessed	Local Authority Mortgage Scheme (LAMS)
Directorate	Finance
Name and role of officer completing this assessment	Jenny Pealling / Karen Williams
Contact Telephone Number	01245 435367 / 01245 436299
Date Assessment Completed	13/05/2013

1. What are the aims and objectives of this service, policy or function? (e.g. what is the likely impact and the relevance?- State whether this EIA relates to an existing, to a proposed change or new service, policy or function and include whether any changes are linked to an efficiency programme)

The LAM Scheme has been developed as a result of local authorities wanting to take a proactive approach to support their local area, increase the supply of affordable housing and assist first time buyers, who can afford mortgage repayments, to purchase a property.

The Scheme aims to help suitable first time buyers by allowing them to access 95 per cent mortgages.

Potential buyers will need to meet the chosen lender's strict credit requirements and the council's criteria on maximum loan size. An indemnity would be provided by the Council to the lender to reduce the typical deposit requirement – in some cases from 25 per cent to five per cent.

The potential buyer would get a 95 per cent mortgage on similar terms to a 75 per cent mortgage. The indemnity would be for the first five years, when there is most risk of repossession.

The Council's role is solely to provide the indemnity to the lender. The actual mortgage contract will be between the lender and the house buyer.

This means that to be eligible for support under the scheme people must firstly meet the lender's own credit requirements. They will also need to meet the local council's criteria on the maximum amount required to support the deposit.

The local council will also be able to determine the postcodes in their area where the scheme would apply.

If an application is successful the council would provide an indemnity for the home buyer to the lender to reduce the deposit required to secure a mortgage. This indemnity will last for five years.

The scheme will be run on a first come first service basis. Once the funding has been fully allocated no-one else will be able to apply for support in that area.

2a. Which strategic objective does this service support? Please state	2b. Is this service provided under a statutory or discretionary duty? Please state
Essex Works Commitment 2012-2017 Contribution to the economic success of Essex.	Discretionary

2c Please state whether this EIA will:

- support a business case development,
- provide evidence for scrutiny decisions,
- provide evidence to support policy, functions or service reviews and efficiency programmes

***Note all papers for presented for scrutiny and business case development require, as a minimum, a supporting Section One EIA form. (screening)**

Supports cabinet paper (21st May 2013) recommending the adoption of LAM schemes in Essex.

3. Describe which policies and/or guidelines control how you deliver the service and who is eligible to receive it?

Essex County Council will not be delivering a service directly. The scheme enables a Local Authority to provide an indemnity (act as guarantor) to a mortgage lender. The Council's Financial Regulations will apply to this aspect. All service delivery is administered by the lender as part of it's normal course of business.

4. Now think about how you actually deliver the service, for example how do people find out about your service? How do they access or use it? Most teams have developed processes to allow them to deliver their service efficiently. Describe all processes here:

As stated above all service delivery will be administered by the lender. Essex County Council is not registered with the FSA and therefore is not able to advertise or promote the sale of mortgages. The lender will make their decisions to lend, or not, independently from the Council in accordance with their own credit approvals processes. The only criteria stipulated by the Council are the eligible postcodes and the maximum loan amount.

5. Could anything in the existing/ proposed policy, service or function mean that any group could be excluded or disadvantaged (albeit inadvertently)? To help you make this decision think about the governance and delivery of your service in respect of each of the equality protected characteristics (groups), list below brief notes outlining the negative impacts that the service may have on each group. Determine how detrimental these impacts are in accessing services and/or engaging with ECC. High, Medium or Low impact? E.g. High relevance may allude to Discriminatory actions such as inability to access service or undue difficulty in accessing services.

Decisions on who can secure a mortgage through the Scheme will depend on the individual's credit worthiness irrespective of any equality protected characteristics they may possess. The lenders will be bound by their own Equality and Diversity policies. An estimation of any impact is provided below for information.

a. **Race and Culture-** Black, Asian and Minority ethnic groups including Gypsies, Roma and Travellers

No impact

b. **Age-** including older and younger people

Possible low impact re younger people due to need to demonstrate credit worthiness.

c. Sexual Orientation- Lesbian, Gay and Bisexual People No impact
d. Disabled people No impact
e. Carers No impact
f. Gender- Men and Women No impact
g Gender reassignment – including transgendered people No impact
h. Pregnancy and maternity No impact
i. Marital Status and Civil Partnership No impact
j. Religion and Belief No impact
j. Addressing Socio- economic and / or health inequalities Possible positive impact re socio economic. No impact re health
6. Your Service may already be meeting the needs of the equality strands in some areas. Please list, group by group, the positive actions you have already taken to address possible inequality.
a. Race and Culture- Black, Asian and Minority ethnic groups including Gypsies, Roma and Travellers N/A
b. Age- including older and younger people N/A
c. Sexual Orientation- Lesbian, Gay and Bisexual People N/A

d. Disabled people N/A
e. Carers N/A
f. Gender- Men and Women N/A
g Gender reassignment - including transgendered people N/A
h. Pregnancy and maternity N/A
i. Marital Status and Civil Partnership N/A
j. Religion and Belief N/A
j. Addressing Socio- economic and / or health inequalities N/A

Conclusion of section 1: You should now have a clear idea of why your service, policy or function is provided by Essex County Council, you should have spent some time thinking about the equality groups and how your service might impact on them, or perhaps why members of these groups are less able to make the best use of the service. Please give a summary of your conclusions and assess the EIA status as High, Medium or Low. The next stage for a High or Medium EIA is to consider the data you could use to help you to support or dispute your initial conclusions. Think about how you will collect this data and/or how you will check your presumptions by consulting with our communities.

Complete the consultation and data plans below. Identify the sorts of data you need and the questions that you need answer to. If you feel that particular organisations or community/ voluntary groups will be able to help you please list these too.

Summary – High/medium impact – Please proceed to gather further data (if necessary) and all High EIAs need to progress to a section 2 EIA.

DATA PLAN FOR MEDIUM/HIGH ADVERSE IMPACTS

What data do you want?	Where are you going to look or who are you going to ask?	What will you do with the data/answer?	Name of planned source (if known)

CONSULTATION PLAN FOR MEDIUM/HIGH ADVERSE IMPACTS

What do you want to know?	Who are you going to ask?	What question will you ask?	What will you do with the answer?	Name of planned source (if known)

The Next Stage - Section 2:

We need to ensure that the consultation process is managed. Please submit Section 1 of the EIA with the consultation and data plans completed. It is likely that some of the data will be available to you without the need for external consultation and /or other officers may have already sought the views of community groups. This will reduce the level of work that will be required by you to complete the final EIA stage. We also need to control our approaches to partners and community/ voluntary groups so that they are not inundated by Essex officers asking them for help and information. We will be able to co-ordinate these approaches.

The equalities team will be able to offer support and advice during the consultation process. Once the consultation stage is complete you will need to complete section 2 of the Equality Impact Assessment using your initial thoughts and the consultation information to develop an effective action plan for your service.

Completion date for consultation and data collection	
Start date for Section two EIA- if necessary	



**Essex County Council Equality Impact Assessment Form Section 1
(Screening)**

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Please submit this form to the equalities team: equalities@essex.gov.uk