

Meeting:	Audit and governance committee
Meeting date:	Wednesday 19 September 2018
Title of report:	Energy from waste loan update
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To provide assurance to the audit and governance committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.

The current status of the loan arrangement is considered satisfactory.

Recommendation(s)

That:

- (a) **the risks to the council, as lender, are confirmed as being reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and**
- (b) **arrangements for the administration of the loan are reviewed and, having regard to the advice of external advisors, confirmed as satisfactory.**

Alternative options

1. None, the loan arrangement was contractually agreed in May 2014, no breaches or areas of concern have taken place during this reporting period.

Key considerations

2. This report ensures the committee fulfils the functions delegated to it in relation to the governance of the waste loan arrangement; specifically to review the risks to the council as lender and to monitor administration of the loan.
3. Since the last report to the committee in July 2017 the loan arrangement has entered its repayment phase.
4. Repayments have been received as expected. No decisions or courses of action have been identified for recommendation to the committee.

Key loan features and update

5. Herefordshire and Worcestershire councils have provided a loan facility of £163.5m in total, with Herefordshire providing 24.2% of the loan value, £40m.
6. Total loan interest and fees charged to Mercia are fixed and are representative of commercial bank charges. These total £69m, £17m for Herefordshire.
7. During the reporting period loan repayments of £4.9m have been received, representing £1.8m in principal and £3.1m in interest.

Technical advisor update

8. Fichtner Consulting Engineers were appointed as technical advisor to the lender during the construction phase of the Energy from Waste (EfW) plant. The Lenders Technical Advisor agreed that the EfW Plant achieved Actual Takeover on 2 March 2017 by Mercia Waste from their EPC Contractor, HZI. The council as a lender was informed by Mercia Waste that the EfW Plant achieved Completion on 2 August 2017, following testing.
9. Going forward an annual report will be presented to the committee unless, in the intervening period, a decision or course of action is required.

Community impact

10. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system. The committee's assurance that any risks associated with the loan arrangement have sufficient mitigation actions applied supports adherence to the code.
11. The loan arrangement will contribute to the following council corporate plan priority to secure better services, quality of life and value for money. Specifically the loan arrangement supports the continued viability and affordability of the contracted waste disposal arrangement.

Equality duty

12. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

14. There are no financial implications arising from the recommendations.
15. The loan arrangement is being repaid as expected, the implications of the agreed loan arrangement are reflected in the council's medium term financial strategy and treasury management strategy as agreed by Council in January 2018.

Legal implications

16. The terms and arrangements for this loan agreement are set out in the senior term loan facilities agreement. There are no specific legal implications arising from this report.
17. The function of the committee is set out in the constitution under 3.5.13. This report relates to functions (a) to review risks as lender and (b) to monitor the administration of the loan.

Risk management

18. Now that takeover is complete and the loan arrangement has entered its repayment phase all but two of the identified risks have expired. The two remaining open risks have been substantially mitigated and are assessed Green as shown on the risk register attached at appendix A.
19. The risk register is shared with Worcestershire County Council and is therefore in a jointly agreed format.

Consultees

20. None.

Appendices

Appendix A - Risk register

Background papers

None identified