

ENVIROLINK - DEBT RECOVERY POSITION STATEMENT
WDA/05/13

Recommendation

That:

1. Members note the position regarding Envirolink;
2. Members agree to write off the outstanding debt owed by Envirolink in the Authority's accounts; and
3. Members agree to fund the shortfall from the balance on the General Fund.

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Report of the Treasurer

1. Purpose of the Report

- 1.1 The report is to provide Members with information about a debt owed to the Authority by Envirolink. The report confirms the current status of Envirolink and sets out the likelihood of recovering the amount owed by Envirolink to the Authority.

2. Background

- 2.1 The former New Technologies Development Project in Huyton was developed under an initiative from DEFRA to show whether alternatives to landfill were environmentally and commercially viable. The Authority was involved in the project in a co-ordinating role and offered some financial support. Much of the remainder of the financial support came from government agencies including the North West Development Agency (NWDA). Elements of the funding were planned to be provided from the European Regional Development Fund (ERDF) via Envirolink, which at the time the project was established was a not for profit delivery agency supported by NWDA and the private sector.
- 2.2 By the time the project had been concluded and afterwards had been demonstrated to be an operational success all the monies due to the Authority from the agencies involved had been paid over with the exception of the ERDF funds due via Envirolink. These monies were not due directly to this Authority but were only due to Envirolink for them to pass on to the Authority when their conditions were met.
- 2.3 The initial demonstrator project was concluded in 2009 and for a period up until July 2011 was shown to be successful operationally and commercially. As such all the conditions that were attached to the ERDF grant via Envirolink were met and the amount, £398k, was included in the Authority's accounts as a debtor due to be paid to the Authority.

3. Report Body

- 3.1 The amount outstanding was due to be paid to the Authority when the project was concluded and shown to be successful, therefore an amount of £398k was included in the Authority's accounts for 2010-11.
- 3.2 During the remainder of 2010-11 and in 2011-12 a series of meetings were held between Envirolink and the Authority. The purpose of the meetings was to gain assurance that Envirolink acknowledged that the monies were owed by them to the Authority and to come to an agreement over when the amounts would be paid.
- 3.3 Envirolink did eventually acknowledge that the amounts claimed by the Authority were owed by them to the Authority, this was confirmed in writing. However, they were less willing to agree to come to arrangements over payment of the amounts, their claim being that they did not hold the monies, rather that the monies were in fact owed to them via the ERDF and when they had received monies from that source they would be in a position to repay this Authority. The ERDF funding was subject to a government review of ERDF funded projects that Envirolink had been involved in and the outcome of that review took some considerable time.
- 3.4 Following the General Election in 2010 and the change of Government, a review of publically funded activities by organisations such as NWDA and Envirolink was undertaken. One of the outcomes of the review was that the Government's support for Regional Development Agencies was withdrawn. In consequence, organisations such as Envirolink, which had been used as a conduit for funding by the NWDA, found that the public sector support for their activities was withdrawn.
- 3.5 Envirolink has, since April 2012, been funded solely from private sector subscription and from the income from its ongoing activities. At the same time, Envirolink continued to acknowledge the debt to the Authority and made it clear that it was waiting for the release of funding from ERDF to be able to meet its commitment. In recognising the debt, Envirolink offered to make a payment of half the amount owed to the Authority by March 2013, with the remainder to be paid in the next financial year. Rather than consider writing the amount off, this offer was accepted in principle as it reflected a clear commitment to pay the sums due.
- 3.6 In late November 2012 the Chief Executive and Director of Finance were contacted by Envirolink, who wanted to have an urgent meeting both to

discuss their financial position and to ask whether any other arrangement could be made over the sums due.

- 3.7 At the meeting Envirolink's draft accounts were shared, and it was made clear that there would be considerable cash flow problems if the Authority called in its debt immediately. This position had been exacerbated by the recent settlement of ERDF monies owed to Envirolink, being significantly less than expected under the terms of the ERDF agreements. In the event that the Authority were to call in its debt immediately, there was little likelihood that the amount could be paid in full. It was more likely that the Authority would receive considerably less than the amounts due, and that calling in the debt would at the same time be likely to put Envirolink's financial future in doubt. Envirolink made it clear that there had been Board level discussion of the short term viability of the organisation given its poor balance sheet and cash flow.
- 3.8 Rather than seeking the immediate repayment of the amount due, which would have jeopardised both the debt and the organisation, a proposal was made for the slightly slower repayment of the debt by Envirolink, this involved payment of the amounts outstanding over the same period (two years) but making quarterly rather than two annual payments. The intention of this was to reduce the immediate pressure to find a very large payment all at once, easing cashflow to a degree. At the same time, the debt owed continued to be acknowledged. Alongside this an offer was made by Envirolink of some Board level involvement by Authority officers to enable a watching brief to be maintained by the Authority while providing support by way of advice to help future decisions over the financial way forward. This offer was acknowledged but not accepted as it had not been put to the Authority in any form.
- 3.9 The proposals were considered by the Envirolink Board on 6th December 2012. Over a week later the Authority was contacted by Envirolink. The contact confirmed that a Board level decision had been made that Envirolink could no longer continue in business as a going concern and that an application had been made by the Board to go into voluntary liquidation. The majority of the staff were to be made redundant as a consequence of the decision, with a very small number left to help the liquidator wind up the business.
- 3.10 For the Authority the impact of the Envirolink Board's decision is that it is very unlikely that we will receive the majority of the debt. A very small proportion of the debt may eventually be paid to the Authority should sufficient funds be available following the liquidation of the organisation

and its assets. The amount and timing of any such payment is uncertain and is not within the gift of the Authority to predict or control. In these circumstances the only option available to this Authority is to recognise that the debt is unlikely to be paid, and to formally write the amount out of the accounts. There may be a small payment after this has been done but that would only be a windfall and should not be planned or budgeted for (although the Liquidator is obliged to return such funds as are found to be available as a normal part of the liquidation process). This is not a satisfactory outcome for the Authority but there is little more that could have been done, and any other action to recover the debt would have led to a similar outcome. The Authority will meanwhile continue to pursue the debt to maximise any amounts that may turn out to be recoverable.

- 3.11 The Authority will have to bear the financial loss of the £398k of income. It is possible to meet this from the General Fund which is held for this purpose and it is proposed that the amount be transferred from the Authority's General Fund be used to offset this loss of income. The General Fund will have sufficient balances at the end to meet this commitment of 2012-13.

4. Risk Implications

- 4.1 The Authority has only a very small chance of receiving payment of the amount due, in writing off the amount the Authority will recognise that and no further risks are likely to accrue.

5. HR Implications

- 5.1 There are no HR implications associated with this report.

6. Environmental Implications

- 6.1 There are no Environmental implications associated with this report.

7. Financial Implications

- 7.1 The financial implications have been set out in section 3 of this report. As Envirolink has entered voluntary liquidation it is very unlikely that the Authority will receive the amount of £398,000 that it is owed. It is proposed that this amount will be met from a call on the Authority's General Fund

which is set aside for such unforeseen circumstances, transferring an amount of £398k from the fund to offset the shortfall of income.

8. Conclusion

- 8.1 The Authority has been owed the balance of ERDF funding for the former NTDP project in Huyton for some time. The monies were due to be paid via Envirolink. The debt will not be met in full as Envirolink has gone into voluntary liquidation. Members are asked to approve the write off the amount outstanding and the use of the General Fund to meet the shortfall.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.