

From: Simon Jones, Corporate Director, Growth, Economy, and Transport

To: Derek Murphy, Cabinet Member for Economic Development

Subject: Kent and Medway Business Fund Delegated Authority

Key decision 23/00028

Classification: Unrestricted

**Electoral Division: All**

**Summary:** Kent County Council (KCC) has two contracts with the Department for Business, Energy & Industrial Strategy (now the Department for Business and Trade) funded from the Government's Regional Growth Fund.

The contracts enable KCC to offer grants, loans, and equity finance to enable businesses in Kent and Medway to create new jobs and increase business investment. These contracts ended on 31 March 2023.

This report concerns a proposal to divert existing KMBF pipeline applications to the Innovation Investment Initiative to enable KCC to continue to support eligible companies whilst HM Treasury complete its consideration of KCC's application to extend both contracts.

**Recommendation(s):**

The Cabinet Committee Member for Economic Development is asked to agree the proposed decision that the Kent County Council:

- (i) continue to manage, monitor, and recover outstanding investments from recipients of the Kent and Medway Business Fund (KMBF) and Regional Growth Fund (RGF) – former Expansion East Kent (ExEK), Tiger and Escalate investments, after the expiry of the former delegated authority on 31 March 2023;
- (ii) divert the existing KMBF pipeline applications to the Innovation Investment Initiative (i3) fund, to continue to support economic growth within the county and to include the generation of income through administration and management fees to allow for the continuation of managing, monitoring and recovery all outstanding investments;
- (iii) delegate the authority to the Director of Growth and Communities to enter into the relevant contracts and legal agreements required to implement this decision and to continue to manage and recover outstanding investments from recipients of KMBF\RGF funding after 31 March 2023; and
- (iv) before the end of 2023, to bring proposals to the Growth, Economic Development and Communities Cabinet Committee for new arrangements related to the recycled KMBF\RGF investments based on the outcome of on-going negotiations with the Government

as attached as appendix A.

## **1. Introduction**

- 1.1 Kent County Council (KCC) has two contracts with the Department for Business, Energy & Industrial Strategy (now the Department for Business and Trade) which enabled KCC to offer grants, loans, and equity finance to enable businesses in Kent and Medway to create new jobs and increase business investment. Funding was obtained through these contracts from the Government's Regional Growth Fund ("RGF").
- 1.2 Both these contracts ended on the 31 March 2023. BEIS arranged for these contracts to be administered by the Department for Levelling Up, Housing and Communities ("DLUHC"). At the invitation of DLUHC, KCC applied to either extend both contracts beyond 31 March 2023 and to retain the recycled Kent & Medway Business Fund ("KMBF")\RGF investments as an Endowment\Evergreen Fund managed by KCC.
- 1.3 DLUHC officials informed KCC on 7 February 2023 that they had been on track to approve KCC's application, but they had just been informed that with immediate effect only HM Treasury would take decisions relating to DLUHC funding and that KCC could no longer be certain that its application would be resolved by 31 March 2023 as had been expected. Even though the funding in question is BEIS funding, the fact it has been administered by DLUHC brings it under the Treasury's edict.
- 1.4 This Key Decision would allow KCC to continue to manage, monitor, and recover outstanding investments from recipients of KMBF funding after 31 March 2023, including but exclusively related to deeds of variation and legal actions to recover debts until agreement is reached with the Government and new arrangements for the recycled KMBF\RGF investments are agreed by a future meeting of the Growth, Economic Development and Communities Cabinet Committee.
- 1.5 The cost of doing so would, in part, be met from:
  - recycled funds (loan repayments), as any costs incurred in managing, monitoring, and recovering outstanding investments would need to retrospectively be drawn from the fund whilst awaiting HM Treasury's determination. Any exit strategy, if required, would include the full costs to do so.
  - revenue generated from the administration and management fees applied from approved loans under the Innovation Investment Initiative (i3).
  - revenue generated from a management fee, for the administration of a grant scheme for and on behalf of NIAB.

## **2. Body of the report**

- 2.1 The Government allocated £55 million from the Regional Growth Fund (RGF) to KCC between 2011 and 2014. This funded three RGF programmes covering the whole of Kent and Medway and additional local authority areas:

- East Kent (Expansion East Kent - £35 million);
- North Kent, Medway, and Thurrock (Tiger - £14.5 million);
- West Kent (Escalate - £5.5 million).

2.2 These programmes operated from November 2011 to January 2016. For most businesses, loan finance was provided at 0% interest, with a repayment period of between 5 and 7 years. KCC's costs of administering these programmes were fully covered by an administration charge deducted from each loan and a charge to the RGF allocation.

2.3 Since January 2017, KCC has used the recycled KMBF\RGF investments (loan repayments and sale of shares in equity stakes) to enable the KMBF to provide new loans and equity investments ranging between £26,000-£500,000 to eligible businesses across Kent and Medway. Most funding recipients receive interest-free loans, with a repayment period of up to 5 years. The recycled RGF investments were also used to finance the Kent Life Sciences (KLS) Fund, a sub-programme of the KMBF programme, which provides equity investments in companies predominantly in the life science sector to support their growth. Since 2017, KMBF has made the following investments:

- No. Loan Investments: 104; Total Loan investment: £12,059,299
- No. Equity Investments: 9 companies; Total Equity investment: £4,350,000
- KMBF Jobs Created Full Time equivalent (FTE) 443.5
- KMBF Jobs Protected Full Time equivalent (FTE) 137.7

2.4 All new funding approvals ceased on the 31 March 2023.

2.5 Due to the end of the current Government contracts in March 2023 KCC are seeking the delegated authority to continue to manage, monitor, and recover outstanding KMBF\RGF investments, until such time that on-going negotiations with the Government are concluded and proposals are brought to a later meeting of the Growth, Economic Development and Communities Cabinet Committee on the future arrangements for the recycled KMBF\RGF investments.

2.6 KCC has been advised by its DLUHC Contract Manager not to make any funding approvals using recycled KMBF\RGF investments after 31 March 2023 without a decision from the Government. The options in this regard to be considered are:

2.7 **(1) Close the scheme/cease all activity.** KCC would close the KMBF to new applications with immediate effect and place all decisions relating to the management and recovery of outstanding investments from recipients of KMBF\RGF investments after 31 March 2023 on hold until a decision regarding the use of the recycled KMBF\RGF investments is confirmed by the Government.

2.8 This may take several months and could have significant negative financial impacts on local companies where investments have been made and delay actions to recover debt as well as cause a reputational risk to KCC and is therefore not recommended.

- 2.9 **(2) Continue the scheme as usual.** KCC continues to approve KMBF loan applications, thus generating administration and management fees, under KMBF, whilst HM Treasury determine their business case, at risk and in contravention to the advice provided by its DLUHC Contract Manager. This option is therefore not recommended.
- 2.10 KCC will continue with its management and recovery of outstanding investments from recipients of KMBF/RGF investments after 31 March 2023.
- 2.11 **(3) Continue with variations.** KCC would close the KMBF to new applications with immediate effect and redirect existing pipeline applications to the Innovation Investment Initiative (i3). Approval has been provided to redirect existing pipeline applications to the Innovation Investment Loan (i3), supported by a new set of Guidance Notes i3 (Standard) and i3 SBB. This is the recommended option.
- 2.12 As with the option 2 KCC will continue with its management and recovery of outstanding investments from recipients of KMBF/RGF investments after 31 March 2023.

### **3. Financial Implications**

- 3.1 Traditionally the annual administrative cost to the KCC of £450,000 (inclusive of staff, legal, appraisal and monitoring costs) have been funded from two sources: a) a management charge of 5% levied from the fund on the value of all investments made to companies; and b) an administrative charge of 5% levied from the companies on the value of all loans.
- 3.2 It will not be possible to recover from the KMBF the administrative costs for monitoring and debt recovery in the short term until a new agreement is in place with the Government.
- 3.3 In the short-term the KCC administrative staff involved in KMBF monitoring and debt-recovery will be involved in the management of the re-launched i3 Innovation Loan programme. The administrative and staff costs for i3 are recovered in a similar way to KMBF: a) a management charge of 5% levied from the fund on the value of all investments made to companies; and b) an administrative charge of 5% levied from the companies on the value of all loans.

### **4. Legal implications**

- 4.1 A decision on the future of the recycled KMBF/RGF investments is expected to be concluded in quarter 1 of 2023-24. There are four options available to KCC and the Government;
- (i) Extension of the current contracts;
  - (ii) Retain the recycled KMBF/RGF investments as an Endowment/Evergreen Fund managed by KCC;
  - (iii) Return all the recycled KMBF/RGF investments to the Government;
  - (iv) Some other option.

- 4.2 It is expected that once negotiations between KCC and the Government have been concluded, KCC will continue to act as the managing authority under a new legal agreement with the Government.
- 4.3 This new legal agreement may potentially not offer KCC the ability to allocate recycled KMBF\RGF investment, however, KCC will still be responsible for the continued monitoring of jobs and expenditure and for the recovery of outstanding investments. In such circumstances KCC would seek an agreement to cover the administrative cost of monitoring and debt recovery from the recycled KMBF\RGF investments.
- 4.4 Before the end of 2023 and after agreement is reached with the Government, new arrangements for the recycled KMBF\RGF investments will need to be agreed by a future meeting of the Growth, Economic Development and Communities Cabinet Committee.
- 4.5 Invicta Law Ltd, Freeths Ltd and Bevan Brittan LLP will continue to provide advice on contracts and insolvency issues and work with the KCC Business Investment Team to recover the maximum amount of loan value. KCC Internal Audit will oversee the investment procedures and processes and advise on other matters related to the use of the funds.
- 4.6 To minimise the risk, for loans KCC will continue to require applicants to provide some form of security, whether through assets, property, or personal guarantees for all investments. KCC will continue to be responsible for monitoring and auditing under the terms of the legal agreements for KMBF.
- 4.7 The key legal risk points are:
- KCC will not be making any funding approvals using recycled KMBF\RGF investments after 31 March 2023 without approval from the Government. However, KCC will be making funding approvals using recycled i3 investments utilising the same decision-making structures, procedures, and safeguards as previously agreed for KMBF investments.
  - Over the coming months, deed of variations and actions to recover debts will continue to utilise the same decision-making structures, procedures, and safeguards as previously agreed for KMBF investments. Deed of variations will be signed using the same format and debt recovery actions will operate in the same way.
  - Where businesses find themselves in difficulty and are unable to repay the loans on the agreed terms KCC can offer to restructure their debt to support further business growth and resume repayments. In cases of non-engagement, KCC will pursue loan recovery through Security or Personal Guarantees, where applicable

## **5. Equalities implications**

- 5.1 An Equality Impact Assessment (EqIA) has been completed and is appended to this report.

## **6. Other corporate implications**

- 6.1 There are no further corporate implications.

## **7. Governance**

- 7.1 The Director of Growth and Communities will inherit the main delegations via the Officer Scheme of Delegation.

## **8. Conclusions**

- 8.1 Kent County Council (KCC) has two contracts with the Department for Business, Energy & Industrial Strategy (now the Department for Business and Trade) funded from the Government's Regional Growth Fund to offer funding to Kent and Medway to support economic growth which expired on 31 March 2023.
- 8.2 Due to changes in Government departments approving funds to extend these contracts, KCC's application, made February 2023 is awaiting final consideration by HM Treasury.
- 8.3 In order to continue the success of the KMBF loan scheme and support economic growth priorities in Framing Kent's Future, the proposal is to divert existing KMBF pipeline applications to the Innovation Investment Initiative.

## **9. Recommendations:**

- 9.1 The Cabinet Committee Member for Economic Development is asked to agree the proposed decision that the Kent County Council:
- (i) continue to manage, monitor, and recover outstanding investments from recipients of the Kent and Medway Business Fund (KMBF) and Regional Growth Fund (RGF) – former Expansion East Kent (ExEK), Tiger and Escalate investments, after the expiry of the former delegated authority on 31 March 2023;
  - (ii) divert the existing KMBF pipeline applications to the Innovation Investment Initiative (i3) fund, to continue to support economic growth within the county and to include the generation of income through administration and management fees to allow for the continuation of managing, monitoring and recovery all outstanding investments;
  - (iii) delegate the authority to the Director of Growth and Communities to enter into the relevant contracts and legal agreements required to implement this decision and to continue to manage and recover outstanding investments from recipients of KMBF\RGF funding after 31 March 2023; and

- (iv) before the end of 2023, to bring proposals to the Growth, Economic Development and Communities Cabinet Committee for new arrangements related to the recycled KMBF/RGF investments based on the outcome of on-going negotiations with the Government

as attached as appendix A.

## **10. Background Documents**

- 10.1 Record of Decision
- 10.2 Equality Impact Assessment
- 10.3 [Decision - Innovation Investment Initiative: Local Growth Fund Grant \(kent.gov.uk\)](#)

## **11. Contact details:**

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