LONDON BOROUGH OF BRENT

EXECUTIVE MEETING
16 August 2004

FROM THE DIRECTOR OF EDUCATION, ARTS & LIBRARIES

NAME OF WARD(S)
FP Ref: EAL-04/05-0055 All

REPORT TITLE: Loan Scheme for Schools

1.0 SUMMARY

1.1 This report requests the Executive to approve the proposal for offering a loan scheme to schools under the prudential capital arrangements and agree to schools being consulted on the proposals.

2.0 RECOMMENDATIONS

2.1 That the Executive agrees in principle to the proposed amendment to the Scheme of Delegation as set out in the appendix to this report.

2.2 That the Executive agrees to schools being consulted on the proposed amendment and receives a report back on the outcome of that consultation.

2.3 That the Executive agrees to the arrangements for funding the scheme as set out in the Financial Implications paragraph 3.3 below.

3.0 FINANCIAL IMPLICATIONS

3.1 The details of the Loan scheme are set out in detail in the appendix to this report with some key points summarised at 6.3. The basis of the scheme is to enable schools to access repayable funding for capital investment on Improvement Projects. The Council will facilitate this through the new Prudential Regime. The Council may also enhance the level of this investment by targeting works to complement Improvement Projects or by providing additional funding.

3.2 The repayments from schools will be used to fund loan costs and any contributions received will be used to reduce the amount of borrowing required in the first instance. Loan costs will be deducted by the Council from the school's Budget Share and contributions from available Devolved Capital at the beginning of each financial year and in accordance with the agreement entered into with the school.

3.3 The Budget Report on the 1st March identified for Schools £2m of unsupported borrowing on an annual basis for each year up to and including 2007/08. It was envisaged that the schools would pay for this unsupported borrowing. The Council's funding contribution will be subject to the availability of resources and capped at 50% of the cost of an individual improvement project. It is not anticipated that any funding will be required in the current year in the light of the time-table set out at paragraph 6.7, however if any is required it will be met from the £1,173,000 surplus expected to be available to carry forward from the 2004/05 Education, Arts and Libraries Capital Programme (see report to the Executive on 24th May 2004: "Capital Investment 2004/05: Allocation of Education, Arts and Libraries Capital Funding" – paragraph 3.6). The requirement for future years funding will need to be considered as part of the 2005/06 Budget process.

4.0 STAFFING IMPLICATIONS

4.1 There are none for the immediate purpose of this report.

5.0 LEGAL IMPLICATIONS

5.1 The original proposal for a loan scheme for schools was put forward during the 2004/05 budget process. Officers were concerned about the schools' powers to enter into the proposed arrangement as it was akin to a loan agreement.

5.2 As a result of these concerns, Leading Counsel's opinion was sought. Leading Counsel's advice was that the scheme could only be taken forward if it formed part of the Council's Fair Funding Scheme, if the Secretary of State approved the amended scheme and payments to works contractors under the scheme were charged to a revenue account.

5.3 Section 48 of the School Standards and Framework Act 1998 (SSFA) requires a local authority to prepare a scheme dealing with certain matters connected with the financing of Schools as are prescribed in Regulations.

5.4 Under Schedule 14 of the SSFA the Council is required to consult with the governing body and head teacher of every school maintained by the authority on the scheme and any amendments proposed to it.

5.5 The Council may choose to fund its contributions to projects under this scheme by borrowing in accordance with the prudential regime introduced by the Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. This legislation requires the Council to set an affordable borrowing limit in accordance with guidance issued by CIPFA and permits the Council to borrow up to this limit.

6.0 DETAIL

6.1 Members agreed during the 2004/05 budget process to the principle of using the new prudential borrowing powers to enable the Council to increase its overall capital programme for schools and expand its ability to deliver the schools' Asset Management Plan programme subject to legal advice. The work covered by the programme would be planned building improvement work (i.e. meeting suitability and/or sufficiency needs rather than condition).

6.2 Officers were concerned about the schools' powers to enter into the type of arrangement described in the Scheme. Accordingly, Leading Counsel's opinion was sought and his advice was that any such scheme would need to form part of the Council's Scheme of Delegation for Schools (the Fair Funding Scheme). There is a statutory requirement for every LEA to have a Scheme of Delegation, which sets out the basis on which schools' have delegated powers. Such Schemes are based on a standard DfES format and any changes have to be both approved by the DfES and subject to consultation with the LEA's schools.

6.3 The nature of the proposed scheme is that, in addition to its core capital programme, the Council will make a contribution towards the cost of capital schemes at schools that have successfully applied for funding from the Council under the scheme. The schools fund the balance of the cost of the works. A copy of the proposed scheme is set out at Appendix 1 to this report. Members will note that the key aspects of the scheme are:

(a) at the beginning of each financial year schools will be invited to submit applications to the Council for assistance under this scheme.

(b) these applications will be assessed in accordance with the Asset Management Plan criteria.

(c) the Council will fund up to 50% of the cost of a project. The Council will provide schools with an indication of the Council's level of contribution at the time applications are sought.

(d) participating schools will be required to pay to the Council the balance of the costs of the project plus any debt charges or interest incurred by the Council in financing that element of the cost of the project over a maximum period of 25 years.

(e) the Council will not approve any scheme which would result in the repayments by the school exceeding 3% of its Budget Share.

6.4 The proposed amendment to the Scheme of Delegation detailing the loan scheme has been produced in the light of Leading Counsel's opinion and advice from the DfES as to the acceptable way of phrasing the scheme.

6.5 The DfES have confirmed that subject to consultation with schools the proposed amendment to the Scheme would be acceptable. There is a requirement that schools should be consulted on all changes to an LEA's Scheme of Delegation and so it is proposed that this consultation should take place once the Executive have agreed in principle to the proposed change.

6.6 The Executive is therefore requested to approve the loan scheme as set out in the appendix and to agree to it being circulated to schools for consultation. The intention would be to create an in-year change to the scheme to enable preparatory work to be undertaken in 2004/05, although in practice the first group of schemes would be approved for an April 2005 start.

6.7 The anticipated timetable for the process is as follows:

August 2004	Approval in principle by the Executive
September 2004	Consultation with schools
November 2004	Result of consultation reported back to Executive and change to Scheme of Delegation approved
December 2004	DfES approval sought to change to Scheme
January 2005	Schools invited to submit bids under the Scheme
April 2005	Commencement of first schemes approved under the Scheme

7.0 DIVERSITY ISSUES

7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications. The proposals would offer the opportunity for schools to create improved educational facilities that would benefit all pupils in the school.

8.0 BACKGROUND INFORMATION

8.1 The following papers were used in the compilation of this report:-

i) Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

Any person wishing to inspect the above papers should contact:

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PROPOSED AMENDMENT TO SCHEME OF DELEGATION 2004/05

Existing paragraph 4.9 (Loan Scheme – Unplanned Emergency Works) becomes 4.9.1 and a new section, 4.9.2 is added:

4.9.2 Loan Scheme – Planned Building Improvement Work

Schools may seek approval from the LEA for planned building improvement work (i.e. meeting suitability and/or sufficiency needs rather than condition) to be financed under this section of the Scheme ("Improvement Projects"). All Improvement Projects will require the approval of the Director of Education, Arts and Libraries or the Assistant Director (Planning, Information and Resources) on behalf of the LEA. Subject to the availability of resources, the LEA may contribute up to 50% of the cost of an Improvement Project.

Schools will be expected to submit expressions of interest that will be used to agree the programme of work to be supported in this way at the beginning of each financial year. At the time they are invited to submit such expressions of interest, schools will receive an indication from the LEA of the limit to the Council's level of contribution to each Improvement Project or the loan scheme in total. Decisions on the prioritisation of submissions will then be taken in the accordance with the Asset Management Plan criteria – particularly in relation to suitability and sufficiency. For secondary schools, the implications of the Building Schools for the Future programme will be taken into account in approving works under this loan scheme. Governing Bodies will be required to make a formal decision agreeing to make the repayments under the scheme in respect of the Improvement Project before it can be approved. No **new** Improvement Project proposed by a school will be approved which will result in the total payments under the loan scheme exceeding 3% of that school's Budget Share (including School Standards Grant) for that year.

The LEA will enter into the contract with the contractor for delivery of each approved Improvement Project and will make the payments to the contractor in respect of it. Any contribution to the cost of an Improvement Project to be made by the LEA will be confirmed at the time that the Improvement Project is approved.

The school will be required to fund the balance of the cost of the Improvement Project. The school may choose to fund some, or all, of its share of the cost by a one off payment that may be from its devolved capital allocation, from its budget share or from other resources available to it. In so far as the school cannot, or does not choose to, make a lump sum payment in respect of its share of the cost of the Improvement Project the school will be required to reimburse the LEA in respect of the balance through this loan scheme by way of annual repayments. The sum to be repaid will consist of the amount paid by the LEA to the Contractor on behalf of the school plus any debt charges or interest incurred by the LEA in financing that element of the cost of the Improvement Project.

However, because the debt repayment would be a revenue charge, the school cannot use its devolved capital allocation to cover the annual repayment cost. The repayment of the loan will be a charge against the school's budget share and will be treated as revenue expenditure in relation to the school's out-turn returns and accounts. The LEA will deduct the loan repayment from the school's budget share at the start of the financial year. Schools must incorporate the annual repayment amount within their annual budget submitted to the LEA each year.

The repayment period will depend upon the type of work and the life of the asset to which the Improvement Project relates but will be up to a maximum of 25 years. The repayment period will be confirmed at the time the Improvement Project is approved.

Where a school's carry forward balance at the start of the financial year in which the Improvement Project is to begin is in deficit or is less than 5% of the total Budget Share of the school, the school may choose to defer the **commencement** of repayment for a period of no more than 3 years or when the carry forward balance exceeds 5%, whichever is the sooner. Any deferred period would be deducted from the total repayment period.

If the cost of the Improvement Project exceeds the amount estimated at the time the Improvement Project is approved, the additional cost will be met by the school, either from its budget share, other school resources or (subject to agreement by the LEA) by increasing the amount of the loan.

This scheme will enable the Council to increase its overall capital programme and expand its ability to deliver the Asset Management Plan programme.

Set out below is a list showing the types of work that are covered by this scheme and potential maximum loan repayment periods.:

Type of scheme	**Repayment Period (Years)**
New building works (i.e. new classrooms)	25
Adaptation and restoration of existing classrooms	15
Refitting of existing classrooms	15
Improved/replacement of IT infrastructure	5
External site works (external walls/fencing)	10

The above is a guide to potential maximum repayment periods for the loan for certain types of work. It is indicative only, is not intended to be an exhaustive list and a shorter repayment period can be agreed with the LEA if the school so wishes.