

CONFIDENTIAL: DISCLOSURE ONLY TO AUTHORISED
COUNCIL OFFICERS

ALLEGATIONS RELATED TO BUSINESS INVESTMENT GRANT (BIG) SCHEME

INTRODUCTION

Allegations were made under the Council's Whistleblowing policy by two persons employed by a company which had a contract with the Council. This report explains the background to the BIG scheme (1.0 to 1.8), states the allegations and examines the details of the evidence presented to support them (2.0 to 2.1.8) and presents the conclusions and findings of the enquiry (3.0).

1.0 BACKGROUND

1.1 On 19th March 2009, Cabinet, Item 394, approved a programme to support businesses with 250 employees or less. This programme utilised the £50,000 identified at Cabinet on 23rd February 2009 to support local businesses during the economic downturn, and £400,000 per year of Working Wirral funds. The fund was available for a wide range of support, including access to consultancy and BIG support grants. It was intended that the availability of such financial support would encourage banks and other lending institutions to also invest in these businesses.

The Cabinet decision of 23rd February 2009 initially targeted use of the assistance at businesses creating new employment opportunities. However, as a result of the economic climate, it was decided by Cabinet on 19th March 2009, that allocation decisions would be made as flexibly as possible, to meet the funding needs of the business. This meant supporting sustainability of business, in addition to new job growth. The business had to be sound, solvent and its plans well-considered and prepared. The funding provided was to recognise a range of factors, including the need for funding to enable a project to proceed.

On 20th October 2009, an internal audit of the process was conducted and the opinion of the system was good with the system of control performing well. The follow up audit on 15th March 2010 confirmed the implementation of the two recommendations and considered the system of control as excellent.

1.2 Business Eligibility Criteria

Invest Wirral Business Team in the then Department of Corporate Services, considered investment plans from businesses of all sizes, including inward investing and indigenous businesses.

The business had to:

- a. be financially and organisationally sound and trading in legitimate activity.

- b. be solvent and its directors also had to be personally solvent.
- c. submit a project that would not be targeted primarily to a local market or to the detriment of local businesses.
- d. comply with rules relating to EU State Aid.

1.3 Project Eligibility Criteria

Projects eligible were those that would transform the growth of the business in Wirral. This was defined by some examples that would have been suitable which were:

- a. a business that chose to locate in Wirral for the first time thus adding to the national and international business base in the Council area.
- b. an established business in Wirral with a project to uplift the productivity and/or employment of their business through investing in their people, equipment and facilities.
- c. a new business with fast growth potential that required funds to achieve growth.

Projects that could not be supported were:

- a. routine, replacement or renewal investment in the business
- b. those that did not require funding to proceed.
- c. those that had already commenced or that were contractually committed.
- d. those that would be aimed at a local market or would be a detriment to local services

Specifically Eligible Expenditure was defined as fixed and project related investment including:-

- a. plant, equipment etc excluding vehicles
- b. building acquisition, improvement, adaptation or extension
- c. investment in new technology, systems, software, processes
- d. initial running or one-off expenditure
- e. investment in people

1.4 Level of Funding

The funding available ranged from £4,000 up to a maximum of £20,000 per project. This fund was entirely discretionary and the BIG grant awarded based upon the assessed need for funding and the benefit the project would bring to the business and to Wirral in both the short and long term.

1.5 Application Process

An application started by contact with the Invest Wirral Business Team. A Project Manager was allocated to work with the business to establish the details of the project by reviewing a synopsis of the project presented by the business, advise on eligibility and, subject to eligibility, prepare a case for consideration by the Council's Assessment Panel. If a project synopsis showed the project was obviously not viable or did not comply with the

conditions of award of a BIG grant, the business was advised how to modify the application and told the current application would not be processed. Eligible businesses were referred in accordance with a contracted agreement, to Enterprise Solutions (NW) Limited for independent assistance in finalising their application. Enterprise Solutions (NW) Limited assigned one of their contracted Business Advisors to assist each business. The financial information subsequently submitted was independently assessed by a Chief Accountant of the Council's Finance Department, who provided a written report and a recommendation to the Invest Wirral Project Manager for inclusion in a report with recommendations to the Council's Cabinet Committee.

At the time the scheme was established, the system ensured a separation of duties between 'Invest Wirral,' who dealt with the business making applications and the assessment of the application.

Staff in the Department of Regeneration, which managed the Working Neighbourhood funds, assessed applications and prepared a report for the Assessment Panel after consultation with the [REDACTED] of The Finance Department. The process continued until the Department of Regeneration ceased to exist in 2010 when the same staff continued but were then in the Department of Corporate Services.

1.6 Assessment process

An assessment panel was established, which included the Council's then Head of Strategic Development, a representative from the Federation of Small Business (FSB) and the Wirral Chamber of Commerce, [REDACTED] of Wirral Council Finance Department, a representative of Business Link and also a representative from a bank, on a rotation basis.

The Panel reviewed the reasonableness of each project and likelihood of the project being effective in achieving the results that were planned and stated in the application and then authorised grants under delegated authority. The Panel's recommendation was submitted to the Director of Corporate Services and the Cabinet Member for Regeneration for their approval.

1.7 Financial Assessment

The application included the business' annual accounts, management accounts reflecting current activity, a cash flow forecast for the period of the grant-funded project, and balance sheet and profit and loss forecasts. These documents were submitted to the [REDACTED] who prepared a written Financial Assessment related specifically to:

- a. the solvency of the business highlighting any risks or concerns so that the Panel would understand if the evidence indicated that the grant would be of no help and wasteful. Cash-rich, strong businesses were not considered suitable by the Council for this Business Support Grant. The applicants were those under financial stress and usually having some cash flow

insolvency though it was essential the Panel considered them to have been financially and organisationally sound, trading in legitimate activity, been solvent and their directors also had to be personally solvent.

- b. the evidence provided by the applicant that they were not able to fund their project other than through the grant. Evidence considered was the cash-flow forecast and overdraft limits.
- c. the business' need for the grant to fund the project.

The [REDACTED] examined the solvency of the business by determining its historic net assets or liabilities and cash inflows as indicated by the profits and losses made to establish the history of the business. The management accounts were used to consider the current position of the business. Independent checks with credit agencies and company records were carried out by the [REDACTED]

Queries on the details provided were referred by the Chief Accountant to the then Regeneration Department who contacted the applicant. This was done so the [REDACTED] maintained independence by having no direct contact with any of the applicants or their advisors.

A final written Financial Assessment was submitted to the Invest Wirral for a summary to be included in the Appraisal Statement submitted to the Panel for consideration.

At the Panel meeting, the [REDACTED] added anything that had not been covered in the Appraisal concerning the Financial Assessment. The Panel considered all evidence presented to assess the quality of the bid, the appropriateness of the project and whether it was a viable and eligible proposition.

1.8 Insolvency

The BIG criteria specified that the business and director had to be solvent to be eligible for a grant. Solvency was not defined in the Cabinet report so the [REDACTED] and Panel used their professional skill and experience in forming judgements on businesses' financial condition. Though insolvency is not a synonym for bankruptcy, which is a determination of insolvency made by a court of law with resulting legal orders intended to resolve the insolvency, the Panel made use of the definitions of insolvency as defined both in terms of cash flow and in terms of balance sheet in the UK Insolvency Act 1986, Section 123, which states in part: [1] 123. Definition of inability to pay debts:

- (1) A company is deemed unable to pay its debts -[...] if it is proved to the satisfaction of the court that the company is unable to pay its debts as they fall due. This is known as cash flow insolvency.
- (2) A company is also deemed unable to pay its debts if it is proved to the satisfaction of the court that the value of the company's assets

is less than the amount of its liabilities, taking into account its contingent and prospective liabilities. This is known as balance sheet insolvency.

It was understood that business insolvency was defined in two different ways:

- Cash flow insolvency: Unable to pay debts as they fall due.
- Balance sheet insolvency: Having negative net assets i.e. liabilities exceed assets.

The Council was not able to declare a business that applied for a BIG grant insolvent when its Directors had not sought to do so themselves. To do so would have been putting the business at risk and the Council may have been held liable for any subsequent business failure. The Financial Assessment of businesses for grant purposes was focussed on determining the risk of insolvency to which the business and its proposed project was liable.

The Panel as a whole reviewed the sensibility and likelihood of the project's ability to be realised, and have the effects that were planned, to create and preserve jobs in accordance with Council policy.

2.0 Allegations

Several related allegations concerning the BIG scheme were made by WB1 to Internal Audit, which were supported and developed by WB2, using the Council's Whistle-blowing Policy. There was no record of these being raised earlier to council staff including the then acting Director of Regeneration, Planning and Housing, KA. The allegations were as follows-

1. Large amounts of public money had been lost as a result of BIG grants having been awarded to businesses that were not suitable to receive such grants. It was contended that a third party would expect that the grant would be given to a business which was profitable and that being "balance-sheet" insolvent made businesses immediately ineligible as business solvency had been specified by the Council as a condition for a grant. WB2 contended that the Assessment Panel that recommended the award of grants should have been applying the same criteria to applications for grant that a bank would have applied for loan applicants in that financial growth based on an initial cash flow and balance sheet solvency should have been the only criterion for consideration of grant award.

2. The grants had been wrongly awarded as a result of poor supervision of the procedure by Invest Wirral and Enterprise Solutions (NW) Limited staff resulting in:

a) Poor work by Business Advisors appointed to assist businesses in making applications. WB2 specifically focussed on the work of one Business Advisors, [REDACTED] BA1, and also [REDACTED], BA2, to some extent.

b) Deceptions and collusion between BA1 and business owners to submit fraudulent information to apply for a grant.

3. The lack of control and deception resulted in grants having been awarded to businesses that were ineligible or soon had to cease trading despite having received a grant. Six businesses that had been awarded grants were cited as examples and two businesses cited as demonstrating inconsistency of treatment specifically with regard to the consideration of insolvency.

The Business Investment Grant applications quoted by WB2 related to:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

4. WB1 alleged that at a meeting with KA, the then Acting Director of Regeneration, Planning and Housing, KA stated that no business that had received a BIG grant had become bankrupt and ceased trading and consequently he had lied to WB1 because many businesses that received grants were insolvent when they applied and specifically, [REDACTED] [REDACTED] had gone into liquidation with large debts.

5. There was an undisclosed personal relationship between [REDACTED] Project Manager at Invest Wirral, and the owners of a business that was awarded a grant, which was likely to have resulted in the grant being awarded.

6. BA1, a Business Advisor, had personally benefited from a business for which he had assisted in the application of a grant.

7. A grant from the BIG budget had been awarded to a business that used it to publish a magazine that featured mostly articles from Wirral Council so the budget had been misused in that it had been used to fund Council activity rather than help businesses.

2.1 Evidence of alleged deception and bad practice in processing BIG applications presented to support allegations

[REDACTED]

WB2 presented a copy of an email from [REDACTED] advising that the:

- balance sheet was insolvent by approximately £77,000,
- applicant was owed £135,000 [REDACTED]
- applicant owned the property in which the trading operation was based.

WB2 asserted that:

a) the business failed to meet the criteria for solvency as it had a balance sheet which showed net liabilities of £77,000.

b) the email WB2 presented, in which it was stated that the Directors' Current Account owed the applicant over £135,000, was used in the application to indicate the applicant was personally owed the sum from the business and that it would not be withdrawn as the applicant was the sole owner of the business. However, the position of the apostrophe s' rather than as 's showed there was more than one director owed money from the business so the business was dependent on another owner not withdrawing cash in repayment of debt, for its continued existence. This was a deception by the applicant which involved BA1, the Business Advisor, appointed by Enterprise Solutions (NW) Limited to assist in the application.

c) the Business Advisor, BA1, wrongly stated the applicant owned the freehold of the property which was the operational base of [REDACTED]
[REDACTED] WB2 presented a record of 12 business transactions from April 2008 to March 2009 titled [REDACTED]. Consequently this indicated the property was jointly owned, so the continuance of the business depended upon the support of two owners and this was not shown in the application.

d) the projected budget :

i) showed sales of £529,920 which was a 50% increase on the previous year of £352,225.

ii) showed a profit of £109,873 based on a gross margin of 69% rather than an historic 50%.

iii) omitted depreciation of £40,000.

As the projections were unrealistic and there was a significant omission, consequently, the Panel was misled by the applicant in collusion with BA1 or as a result of his lack of diligence.

e) there was a personal relationship between [REDACTED] of Invest Wirral, and [REDACTED] which affected independence in assessing the grant application. It was stated this was demonstrated by [REDACTED] having given a bottle of champagne to BA1, the Business Advisor, after he had assisted [REDACTED] in receiving a grant.

Evaluation of the evidence

Assertion a) that an insolvent balance sheet in itself made the application ineligible was not the standard by which applications were judged. Each application was considered by taking many aspects into consideration rather than solely the financial situation. The Panel was often presented with applicants with net current liabilities in an insolvent balance sheet because of the condition of businesses which sought assistance. This was not considered a reason for refusal of a grant if the wider characteristics of the business

indicated the project would be successful. The balance sheet position was fully understood, assessed and reported in the Financial Assessment to the Panel.

Assertion b) concerning the company's Director Current Account which showed £135,000 indebtedness to its director or directors was reported by the [REDACTED] in the Financial Assessment and was considered as a risk that was unlikely to affect the business as there were no funds to enable the loan to have been repaid. The risk to the business of a previous director requiring repayment of the loan was known and reported to the Panel. The decision taken was that such action would have resulted in the business having to have been wound up in order to be able to make such a repayment which was considered to have been unlikely.

The evidence WB2 presented concerning the debt having been owed to more than solely the applicant was a record from the company's Sage accounting system showing a transaction entitled '[REDACTED]' and an email using a plural possessive apostrophe s'. There was an assumption that Directors' Loan account automatically meant that there were several directors. An account could be titled Directors' as standard, whether or not there were any loans or not amongst its directors or sole director. The e-mail presented was from A [REDACTED], and stated that the debt was owed to the applicant alone. It would be unethical for an accounting firm to have made such an assertion knowing it to have been wrong and unreasonable to consider such a deception would have been carried out.

Assertion c) concerning shared ownership was not known to the Panel but was not material as the ownership of the premises that a business occupied was rarely determined by the Panel and it did not require this information for any applications as it was considered that most applicants traded out of rented or leased premises. The Panel did not seek to discover the ownership or contractual obligations of premises. The assumption was that the use of the premises continued as for any other of the business's resources. The ownership of the business premises was not a criterion in judging applications

Assertion d) that the Panel was misled by the forecasts provided having been deliberately overstated was a possibility but there is no proof that there was deliberate deception, poor judgement or if the forecasts were based on assumptions of changed trading factors. The Panel consisted of experienced business advisors, business people and both public and private sector accountants. The Panel was considered to have been aware of the inherent weaknesses in forecasting future events in cash flows and were pragmatic when considering such evidence. Though the projections were ambitious, there was no direct proof of the applicant or Business Advisor having deliberately and intentionally attempted to mislead the Panel.

[REDACTED] was regularly visited by the Project Manager allocated by Invest Wirral who verified the project funded by the grant succeeded and the business continued trading.

Assertion e) that there was a personal relationship that affected the independent assessment of the grant claim was solely evidenced as it was claimed that [REDACTED] of Invest Wirral, had given BA1, the Business Advisor who assisted in the application, a bottle of champagne after [REDACTED] successfully received a grant of £20,000. It was confirmed that BA1 did receive a bottle of champagne but he received it from [REDACTED]. The allegation was totally without foundation.

[REDACTED]

WB2 presented the applicant's business plan which showed a predicted increase in turnover of £20,000 due to the purchase of the new equipment financed by the grant, with a profit of £161,000 and showed an investment of £1.2m from the business' holding company, [REDACTED]. He stated that the Panel had been deceived by submission of inflated financial estimates and lack of clarity on liabilities. WB2 asserted that:

a) the profit forecast was excessive as the business had made a loss of £135,000 in the previous year; and the application stated a predicted profit of £161,000 in the following year which was based on an estimated £20,000 increase in turnover. WB2 considered the business was unlikely to achieve the £296,000 increase in profit in a year.

b) the investment of the holding company was worthless unpaid share capital.

c) the net current liability of the business was £100,000 if the stated £1.2m debtor was ignored which made it insolvent so ineligible for grant.

Evaluation of the evidence

Assertion a),b) & c) did not provide evidence that was not known to the Assessment Panel, as there was a statement in the Appraisal that "the application satisfies the BIG Scheme criteria in that it will assist [REDACTED] with their plans to stabilise the business and will potentially create one new job." (Section 2 of the Appraisal issued 20 August 2010.) Enquiries were made for the Panel on the underlying worth of the group and the net liability was reported to the Panel. (Section 7 of the Appraisal issued 20 August 2010).

WB2's three assertions concerning the underlying liquidity of the applicant's group of businesses and whether the applicant's forecast was realistic were identified and considered by the Panel.

The submission to the Panel recommended that the project met the BIG criteria in assisting a company to stabilise and diversify their business. There was no evidence that the applicant deliberately falsified forecasts. [REDACTED]

[REDACTED] verified the business continued trading after receipt of the grant and fulfilled the purpose of the grant.

WB2 asserted the Panel had been presented with inflated financial estimates which enabled the business to have been considered as being suitable for a grant. The WB asserted:

a) the projected cash flow had been overstated to make the business appear in a better trading position than in reality as:

- The balance sheet at 31/03/2010 showed debtors of £31,135 but the cash flow forecast which commenced in May 2010 showed debtors of £80,000.
- The balance sheet's creditors of £16,253 had not been included in the cash flow.
- VAT of £36,043, previously included in the accounts was not included in the cash flow forecast.
- The bank balance of £25,296 shown in the cash flow was £4000 higher than it was in the 31/03/2010 balance sheet.

b) the projected cash-flow had to have assumed an unrealistic level of trading in a month to double the debtors, pay a VAT bill and increase the bank balance which was unrealistic to the point of having been deceptive or inept by the applicant and BA1, the Business Advisor, in allowing it.

WB2 presented an alternate cash-flow projection using the same information used by the applicant and Business Advisor, which showed that rather than closing the year with £42,506, there would be a deficit of £23,816 and showed that there was a deficit throughout the period whereas the cash-flow submitted always had a positive cash balance.

had become insolvent and therefore proved the grant money was wasted by having been given to a failing business.

Evaluation of Evidence

Assertion a) and b): WB2's revised cash flow forecast indicated there would be a deficit at year end of £23,816 rather than the £42,500 cash, as estimated in the cash flow submitted in the grant application. Though a deficit, this cash position would still have been an improvement on the opening deficit of £51,930 used in the WB2's forecast and such results were considered acceptable to the Panel and enabled businesses to have a grant depending on its judgement of the business.

The business was only nine months old when the application was made. cash flow forecasts were considered by the Panel as unreliable, particularly with regard to new businesses as it was accepted that there was no previous experience of the business' activity to provide evidence for precise estimation of cash flow projections.

Assertion c):

had ceased trading. The original application had been approved on [] and the grant paid on []. Correspondence had taken place between Invest Wirral and one of the directors of [] during March 2011 concerning a transfer of the business and assets of [] to a new company, [] which had been formed on 11th October 2010. Following consultations with the Department of Law, HR and Asset Management, Invest Wirral approved this approach as the project would continue to be realised and the associated jobs preserved. Accordingly, [] took over the assets, orders and staff of []

One of the directors of [] had set up the new business with a new director. The conditions of the grant as specified in Paragraph 10 of the offer letter permitted successor businesses to inherit equipment purchased with a BIG grant. Although the former director attempted to pay the debts of [], that company subsequently entered liquidation in May 2011.

Invest Wirral confirmed [] continued trading successfully and delivering the outputs which was the purpose of the grant. There were records of ongoing reviews and contact with [] which was considered to be successful as three extra people had been employed and three apprenticeships established since [] commenced trading. The equipment purchased with the grant was at [] premises and was being used.

WB2 presented information from Companies House which indicated there had been attempts to close down [] Ltd which included annual accounts which showed debts outstanding.

WB2 asserted:

a) neither the applicant, [] nor BA1, the Business Advisor, included in the application that [] was also the sole director of [] which was a business with deficits shown in the trading accounts of £187,000 and that the solvency of the applicant business was dependent upon a £69,117 debt from [] which was unable to repay the debt because of its deficit. Without this debt, the applicant business was £52,000 in deficit with net current liabilities of £216,060 and so ineligible for the grant to have been awarded.

b) that the applicant's business' accounts showed annual losses of £24,183 and £68,404 and the management accounts showed a loss of £1,949. The applicant's [], lost £10,000 in one year and £81,000 in another. WB2 considered these facts indicated the business owner as unsuitable to receive a grant as his business ability was not adequate and both his businesses were insolvent so he was ineligible for a grant award.

c) the application submitted stated the limited company had been closed down, whereas despite attempts to voluntarily remove the company from the Register of Companies, objections had been raised and the company was still on the register.

d) the accounts submitted showed a freehold property re-valued from £85,480 to £225,000 with no evidence to support it and the profit and loss account submitted in the application was incorrect as it should have reflected the large changes in the balance sheet as a result of this revaluation.

e) though all this evidence was available for the Panel, a grant was awarded. Third parties would expect grants of public money to be to enterprises which were profitable but lacked cash for investment and managed by directors with proven business expertise.

Evaluation of Evidence

Assertion a),b) and c): The accounts submitted in the application showed these issues so they and the other issues were known to the Panel as the application stated the existence of a limited company created to trade in London and the South East and that it was closed down in 2009. It was stated that the business started well, but due to a relationship breakdown, ended badly. The application stated that [REDACTED] the applicant, was left to wind up the business and settle the debts, and that this has been achieved at considerable personal cost. The application also stated that there was a charge against the freehold premises taken out to pay off the liabilities of the then, non-trading limited company.

Assertion b): The BIG criteria stated that "The business and its directors must be solvent". Being a director of another insolvent company was not a reason for being disbarred unless that business was in receivership which would have made the director personally insolvent and so ineligible for a grant. WB2 did not assert that [REDACTED] was insolvent and there was no evidence of it, so RC was not disbarred from being considered for this grant.

Assertion d): The application stated that the premises were owned freehold with a mortgage from Nat West Bank, valued by [REDACTED] at £250,000 and that [REDACTED] also owned a mortgaged residential property. The revaluation was shown in the business' Revaluation Reserve, which was stated in the application. The [REDACTED] considered it was appropriately treated in the accounts and reported to the Panel correctly.

Assertion e): All the financial information presented by WB2 had been made available to the Panel for consideration of the grant. There was no evidence to suggest that there was expectancy that third parties would expect grants of public money to be made to only enterprises which were are profitable but lacked cash for investment. BIG awards were made in accordance with approved Council policy on eligibility.

[REDACTED]

WB2 asserted that the cash flow included in the grant application had understated the income likely to have accrued to the business, in order to have made the business appear suitable for award of a BIG grant.

WB2 asserted:

a) there were inconsistencies in the way that sales were treated in the cash flow. WB2 stated that the income from sales made each month were recorded in the projected cash flow in the following month but that the income estimated from the debtors of £95,000 which were in the year end accounts did not follow this convention as they were spread over six months. This made the business appear to be eligible for grant because of the estimated cash flow.

WB2 drafted three alternative cash flow statements from the data in the cash flow submitted as part of the grant application. These used assumptions that debtors would have paid in one, two or three months, respectively which WB2 stated were more reasonable assumptions and demonstrated that there was no need for the grant so the Panel had been deceived in awarding a grant.

b) the Council was wasteful in having made a grant to a business in which the turnover was projected to only increase to £58,000 after a £20,000 grant. WB2 stated that this represented a poor investment and the business did not meet any bank's criteria of profit to make it eligible for a loan, so it should not have a grant of public money.

c) the publication produced using the grant was effectively an [REDACTED] " [REDACTED]

[REDACTED]

[REDACTED]

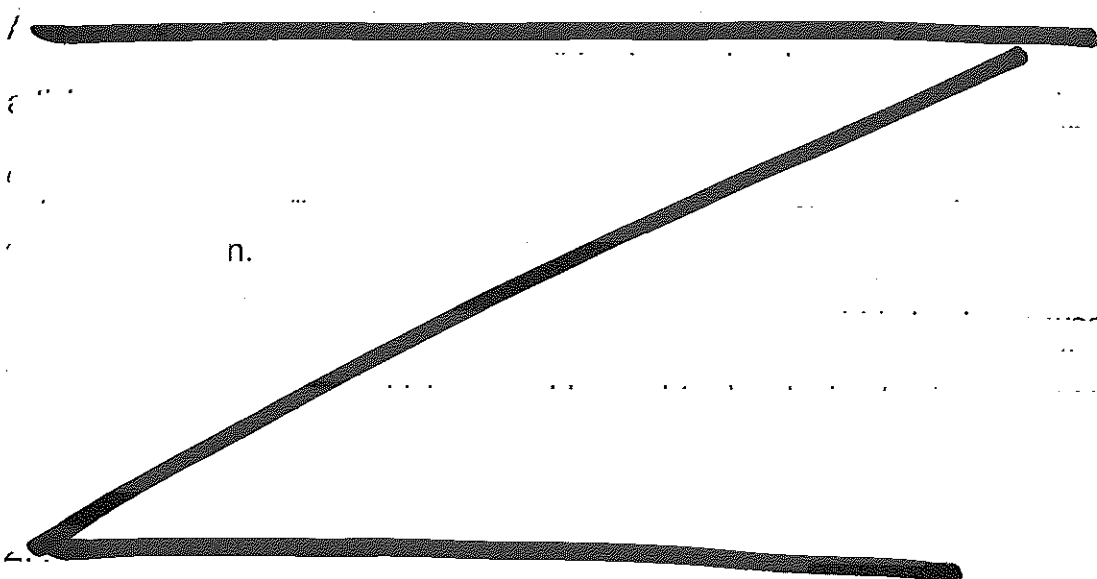
d) BA1, the Business Advisor who assisted in the preparation of the grant application, benefited personally from the magazine because he wrote a column in the magazine which included reference to his own business.

Evaluation of Evidence

Assertion a): WB2 provided three alternate budgets, none of which showed the cash flow would have fallen to a level that would have indicated the business would have been eligible for a BIG grant. WB2 reviewed and changed some of the expenses estimated as well as adjusting the estimated periods in which debts would have been collected. If the cash flow projection had been prepared in any of these forms, the [REDACTED] considered it was unlikely the grant would have been made. WB2's implication was that the Panel was deceived by the applicant and BA1, the Business Advisor who

assisted the application preparation. There was no evidence of deception and the uncertainty related to cash flow projections was recognised by the Panel who always made decisions on grant allocation after consideration of wider characteristics of the applicant's business rather than solely on cash flow projections. These were recognised as always having been based on assumptions which were subjective as indicated by WB2's three alternative estimates.

Assertion b): The BIG scheme was not established to make grants to businesses that were profitable and complied with commercial banks' criteria to receive loans. The BIG Grant criteria were established so that assistance would be provided to businesses to create and maintain jobs as a result of the development of specific new projects.



WB2 asserted the Business Advisor, BA1 had decided that a grant should not be awarded to [REDACTED] which he was not authorised to do and he had favoured another business by assisting in its grant application inappropriately.

WB2 asserted:

a) BA1, the Business Advisor decided that the application would not be prepared and submitted to the Panel as the business was insolvent as a result of a negative balance sheet of £15,000.

b) this business had been unfairly treated differently to [REDACTED] who also had BA1 as Business Advisor. WB2 stated [REDACTED] as also insolvent with a larger negative balance sheet of £66,000, but their application was assisted by BA1, submitted to the Panel and a grant awarded.

Evaluation of Evidence

Assertion a): [REDACTED] did not proceed to application stage. [REDACTED] had been in existence for only two years and had not started trading as its business was software development. The first synopsis presented by the business for Invest Wirral was rejected by Invest Wirral as the project of development of software was estimated to have been completed outside the period of the grant scheme at that time, and there was no evidence that it was a viable business as no income was estimated to be generated from the financial information presented. The business claimed it would invest £1,000 of its resources into the project and that was considered unrealistic. Subsequently, a second synopsis was rejected with a revised project timescale but the finances were still considered to have been too weak and the financial evidence did not demonstrate a sustainable business. The project at that stage of development was considered to have been too speculative to support. BA1, the Business Advisor, did not reject the two synopses and it was not his role to do so. The decisions and comments were passed by Invest Wirral to the business as reasons for not being able to proceed to full application stage.

Assertion b): In comparison, [REDACTED] at the time of its application, employed eight permanent staff and planned to take on a further two as a result of the project along with additional free-lance driver support. The accounts in the year to date at the time of their application showed a turnover of £335,768 which generated profits of £25,678. The business had been in existence for over forty years at the time of its application. [REDACTED]

[REDACTED] application taken as a whole therefore presented a different proposition to that of [REDACTED]. The allegation concentrated solely on the size of the balance sheet deficit as evidence of potential unfairness, whereas there was consideration of more aspects of a business before deciding on allocation of grants.

[REDACTED]

WB2 asserted that attempts to obtain a grant by fraud had been committed by an applicant in collusion with Business Advisors.

WB2 asserted:

a) the accounts prepared by a Business Advisor, BA2 to support the grant application were of a poor standard, and included many errors and discrepancies. In particular, the balance sheet did not show any liabilities or stock so did not fulfil the basic requirements of a balance sheet and WB2 stated there was no evidence for the figures in the balance sheet and the accounts were not audited.

b) the submission of these documents to support an application for grant amounted to an attempt to gain a pecuniary advantage by misrepresentation, in which the Business Advisor, BA2, was a participant.

c) BA1 was assigned as Business Advisor in place of BA2, to further assist the application after the queries on the accounts and balance sheet raised by the Chief Accountant, had been addressed. WB2 presented documents to demonstrate the business had submitted 'dormant' accounts to Companies House as a limited company for the period to 30 June 2010, whereas the grant application included management accounts for April 2009 to March 2010, so he asserted that the accounts re-submitted were therefore fictitious and so a fraud had taken place to obtain the grant.

Evaluation of Evidence

Assertions a) and b): [REDACTED] stated that there was no reason to suspect attempted fraud had been committed. [REDACTED] had enquired into the absence of liabilities and stock on the balance sheet initially submitted, and the unrealistically low level of drawings. The reasons were that the business' nature was cash-based, stocks were not held, and the applicant's partner had salaried employment elsewhere from the business which would provide support. The business had been changed from a "sole trader" to a limited company. These explanations were acceptable to the [REDACTED] and it was not expected that the accounts would have been audited.

Assertion c): [REDACTED] confirmed the submitted application was in accordance with grant regulations and the financial information submitted was appropriate. The business was visited by Invest Wirral after it received the grant and it was confirmed as trading and having used the grant in accordance with the application. There was no evidence of fraud. The business had been dormant as the owner had been in hospital for a long period and no trading took place then.

[REDACTED]

WB2 asserted that the BIG grant was awarded without adequate evidence of financial issues having been presented.

WB2 asserted:

a) a Business Advisor appointed by Enterprise Solutions (NW) Limited, produced management accounts from [REDACTED] accounting system and so they had not been prepared independently. They were used to support their application for a BIG grant.

b) the need for a grant was queried by the Council's [REDACTED] from the evidence of the cash flow.

Evaluation of Evidence

Assertion a): Annual financial accounts were also submitted as part of the application. Management accounts were accepted to indicate the recent financial condition of applicants. Small businesses and those that had recently

started trading were not expected to produce audited accounts and management accounts were not required to have been prepared independently.

Assertion b): [REDACTED] had raised issues related to the cash flow projections and included his opinion in the Financial Assessment. The Panel authorised the grant to fund a specific project after considering all aspects of the business and the merits of the planned project.

3.0 Conclusions and Findings relevant to allegations in Section 2.0

Allegation 1. The Council approved the BIG process specifically to safeguard jobs in businesses experiencing difficulties. Such businesses were at risk and consequently there was a risk attached to giving grants. WB2's basis for challenging the award of grants was based on his own assumptions concerning policy.

The Council had set a criterion that all businesses must be solvent but this term had not been specifically defined. The definition was interpreted by the Assessment Panel by considering the Insolvency Act 1986. "Balance sheet insolvency" in which a business' balance sheet showed it to have more total liabilities than assets was not considered to have been a reason to exclude applications whereas extreme "cash flow" insolvency, in which a business was unable to pay its debts in a reasonable time was considered a potential reason to not award a grant. However, businesses that were targeted by the policy were those that were in need of cash to develop a specific project which would assist in job creation or preservation. Awards were considered by the Panel on the basis of a wider view of the applicant's business rather than purely the arithmetic condition of its finances, so WB2's opinion that basic "balance sheet insolvency" was a reason to refuse a grant was erroneous.

Finding

The Business Support Grant criteria had been authorised by the correct procedure in the Council and so WB2's basic premise was not an appropriate basis for his complaint of waste of public money.

All businesses quoted in the allegation were found to be still trading, apart from [REDACTED] whose business had been transferred to a successor company.

Allegation 2. The majority of WB2's allegations were based on the accuracy and reasonableness of cash flow projections. It was recognised by the Council's [REDACTED] and the rest of the grant assessment Panel, which was composed of experienced, qualified persons from a variety of backgrounds, that projections were based on assumptions and so could be portrayed in different ways. The Panel based its decisions on the total evidence supplied rather than solely the cash flow.

Finding

There was no evidence that anything which has been alleged was a malicious or fraudulent action by any individual nor that there were any significant errors committed by staff or Business Advisors

Allegation 3. There were six businesses cited by the WB2 as evidence of poor judgement in awarding grants, but all were verified as trading after the grant and achieved the objective of the proposed project and maintained jobs. The two businesses that were cited as demonstrating inconsistent treatment and potential favouritism were posed as they both had elements of insolvency. However, there were significant differences in the overall characteristics and history of the businesses and value of the proposed projects which justified the Panel's independent decisions on each of them.

Finding

The continued success of the businesses cited and evidence of appropriate reasons for different treatment of two businesses indicates no evidence of poor judgement in awarding grants.

All businesses were followed up as a matter of course by Invest Wirral who verified that, despite difficult economic circumstances all had delivered the projects in full, including creating the new jobs referred to in the grant applications. As part of the investigation, Internal Audit have verified that all those applicants referred to in paragraph 3 of section 2 above, which were limited companies, remain in existence and have not gone into liquidation, apart from [REDACTED] whose business has been transferred to a successor business (see Allegation 4 below). In the case of the one applicant which was not a limited company [REDACTED] Internal Audit have verified that the business is still trading.

Allegation 4. Before raising whistleblowing allegations, WB1 had met KA, the then Acting Director of Regeneration, Planning and Housing to initially query: Wirral BIZ and its operation of the ISUS programme; whether we could support him in an appeal to get his job back; the allocation of BIG grants and, in particular a number of businesses that had received grants and had failed. However he did not specify any business by name. KA had disagreed that these businesses had gone into liquidation. In the Whistleblower's allegation, WB1 quoted the liquidation of the business, I [REDACTED] as evidence of a business that had failed after receiving a grant so considered this was evidence that KA had lied to him. The project funded at [REDACTED] transferred to a new business which had been created by one of the owners of [REDACTED] in accordance with the conditions of the grant. [REDACTED] did subsequently go into liquidation [xx] months after the application was approved and after it was agreed to transfer the project to [REDACTED], but the aims of the project funded by the grant were achieved and continued.

Finding

The meeting between WB1 and KA took place on 5 July 2011. As at that date one of the companies referred to in the allegation had gone into liquidation although its business and assets had previously been transferred with the approval of KA to a successor company which was continuing the grant funded project. There is evidence that KA was aware that the original company had continued in existence following this transfer. There is no evidence that KA was aware that the original company had subsequently gone into liquidation. Ongoing monitoring of the related project continued through the successor company. As such there is no evidence to support an allegation that KA had lied.

Allegation 5. The allegation of an undisclosed personal relationship that would have affected professional judgment was based solely on an alleged gift but it was confirmed the gift was not from the person against whom the allegation was made

Finding

There was no evidence found to support the allegation of an undisclosed personal relationship or favouritism.

Allegation 6. BA1 had an inappropriate business relationship with a business as BA1 wrote articles for the magazine funded by a BIG grant, subsequent to him assisting in the preparation of their grant application.

Finding

This relationship did not commence until after the grant had been awarded but the potential conflict of interest, was not recognised by BA1. BA1 was not aware of a procedure for declaring potential conflicts and was not required to follow public sector standards. BA1's skills and business experience were relevant to the perceived audience of the magazine. There was no evidence that BA1's work for the magazine influenced BA1's role as Business Advisor.

Allegation 7. The magazine's targeted readership was those interested in small-business development. It did include articles from Council staff that had specific responsibility for providing assistance to business development.

Finding

The magazine was not the responsibility of the Council, was not under the control of the Council and there was no evidence it was an "in house" publication as articles were written by Council staff only by invitation.

