



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Recovery of Loan Money – Northampton Town Football Club Update on Various Recovery Streams
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	24 th March 2021
Key Decision:	NO
Within Policy:	YES
Policy Document:	NO
Directorate:	Chief Executive
Accountable Cabinet Member:	Leader of the Council
Ward(s)	ALL

1. Purpose

- 1.1 The purpose of this report is to provide Cabinet with a high level update on enforcement activities to recover the lost loan monies, covering all streams of activity by the Council and others involved through Insolvency processes.

2 Recommendations

- 2.1 That Cabinet notes this update report.

3. Issues and Choices

Report Background

- 3.1. Cabinet has received various reports on the actions the Council has taken to recover lost loan monies. Key reports considered by Cabinet on 25th April 2018 and 9th May 2018 outlined the Court activity (the litigation stream) and the Insolvency Stream both of which were seeking to recover lost loan monies. This report follows on from the report Cabinet considered in private session on 3rd April 2019.

- 3.2 In relation to the Litigation stream, the Council was successful in its litigation in the High Court (July 2018). The Court found that both Anthony and David Cardoza were in breach of their fiduciary duties as directors of NTFC. Accordingly, between them they were liable to pay the Council **£2.79M** (subject to amounts shown to have been repaid) and the costs relating to the works that David Cardoza had undertaken to his then house in Northampton. The Council were also awarded legal costs relating to the litigation.
- 3.3 Cabinet will receive a detailed report in private session as that note contains confidential and legally privileged information. However, it is appropriate, given the public interest in this matter that Cabinet receives this report in public session.

SUMMARY OF RECOVERY STREAMS

Litigation Stream	Recovery	Risk
Property 1 Sale Recovery	£131,590.16 Received	None
Property 2 Sale Recovery	Circa £280,000 Expected anytime now	low
Cardoza Residential Property	Circa £418,709.99 . Expected medium term	low
Insolvency Land Ltd ^{1st}	TBC	Medium/high
Insolvency Anthony Cardoza	TBC	Medium to high

Update Cardoza Litigation

- 3.4 **Limited Company-** Following the Judgment, NBC's Solicitors as part of a tracing claim against a company owned by connected parties identified two properties owned by the company to recover monies as part of the Council's enforcement strategy. Of the two properties, one has been sold and the council has received **£131,590.16** (October 2020). A second property has been on sale and completion is imminent. The expected recovery from that sale is **£280, 000**, making a recovery in the region of just over **£400,000**
- 3.5 **Order for sale- David and Christina Cardoza Family Home**
Pursuant to the High Court Judgment, NBC was granted a final charging order in respect of the family home of David and Christina Cardoza. This charge attaches to their current family home outside Northampton. The precise details of their current family home **must remain confidential at the present time because of concerns raised by the Cardoza's about personal safety issues.**

- 3.6 Since the Judgment, NBC has applied for and obtained an order for the sale of the Cardoza's family home. This means that the Property must be put for sale for a value of not less than £650,000 unless prior to that date, Mrs Cardoza makes payment of the following sums to NBC:

Summary

- £365,975.97 (being the amount secured pursuant to the final charging order);
- NBC's costs of £15,677; and
- Interest accruing at the rate of £80.21 per day from 29 November 2019, which presently stands at £37,057.02 as at the date of this note).

- 3.7 The total sum which Mrs Cardoza must pay to NBC at around the time that this report was prepared is circa **£418,709.99**. As stated, unless Mrs Cardoza pays this sum (plus additional accrued interest) to West Northamptonshire Council(WNC) (as the successor authority) by 16:00 on 02 June 2021, unless it is agreed otherwise, the Council will require the house to be vacated and put up for sale.

3.8 Bankruptcy of Anthony Cardoza

Summary

- Anthony Cardoza was declared bankrupt on 9 April 2019.
- Following this, FRP Advisory LLP was appointed as Anthony Cardoza's trustee in bankruptcy ("**TIB**"). The TIB has the power to review and unwind "reviewable transactions" with the aim of collecting assets for the benefit of Anthony Cardoza's creditors as a whole. It would appear, as matters currently stand, that NBC is the only creditor which has come forward.
- NBC do not have direct control over FRP who are discharging a statutory role. However, NBC, as sole/major creditor does have a large interest in the outcome of any recovery FRP are currently considering a number of claims and reviewable transactions against a variety of individuals.

- 3.9 It should be noted that the costs incurred in challenging a reviewable transaction are recovered in priority to any distribution to creditors (i.e. before NBC or its successor authority (WNC) receives its money). However, at present, NBC has not contributed to any costs associated with recovery under this stream.

3.10 Deloitte / 1st Land Liquidation

Cabinet will recall that 1st Land Limited received large amount of NBC's loan monies to undertake construction of the East Stand. This money was dissipated/spent by 1st Land Limited.

- 3.11 In 2019, Deloitte proposed commencing a number of different claims as liquidator of 1st Land, which presented another route to recovery for NBC, as majority creditor of 1st Land (in liquidation). It is the liquidator who has control of these claims, not NBC, but NBC has an interest in their outcome, as majority creditor.

- 3.12 Deloitte approached NBC and asked if they would consider acting as Funder to cover the costs of bringing those claims (in return for a Funder success fee if the claims were successful and recovered sufficient sums in damages). NBC did not object to this approach in principle, as the proposed claims might have provided additional recoveries to NBC as the largest creditor of 1st Land, if successful. The potential structure of any Funding Agreement was considered and approved by Cabinet in an earlier report.
- 3.13 However, NBC has been unable to negotiate an acceptable funding agreement that had an acceptable recovery/risk profile.
- 3.14 NBC became aware via third parties that claims had been issued by Deloitte in early 2020 against:
- Mandy Grossman;
 - OGR Stock Denton LLP; and
 - Synergy Property Design Consultants Limited.
- 3.15 These claims were stated in the 24 March 2020 Liquidators' Progress Report to total approximately **£837,000**. The level of recover available to NBC as major creditors has yet to be determined but NBC is proactively engaging with Deloitte.
- 3.16 The Police as part of their processes are looking to secure relevant assets that may be called upon as part of proceeds of crime processes. NBC understand that there are certain restraint orders secured over particular properties. This is a matter for the police and ultimately the criminal enforcement processes that may follow.
- 3.17 This report and the handover issues arising will be passed onto the new West Northants Unitary Council for consideration and action as they see fit.

4. Choices (Options)

- 4.1 This is an update report and no particular decisions are requested.

5. Implications (including financial implications)

5.1 Policy

- 5.1.1 None specifically.

5.2 Resources and Risk

- 5.2.1 The body of the report contains the relevant information relating to financial recovery. There is risk that further costs may be incurred if additional action is undertaken, however they cannot be quantified at this time.

- 5.2.2 The Council is assuming c£830K will be recovered at this time, which will be offset to the Sixfields Loan Loss reserve, when received.

5.3 Legal

5.3.1 These are contained within the body of the report.

5.4 Equality and Health

5.4.1 None specifically arising from this report.

5.5 Consultees (Internal and External)

5.5.1 Corporate Management Board

5.6 Other Implications

5.6.1 None specifically

6 Background Papers

Confidential and legally privileged advice note by Osbourne Clarke Solicitors 5th
March 2021

George Candler
Chief Executive