


**ARUN DISTRICT COUNCIL**  
**DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

*To be completed for decisions taken in accordance with Part 4, Officer Scheme of Delegation, Section 1, paragraph 5.2.*

<b>DATE DECISION TAKEN</b>	16 April 2020
<b>SUBJECT</b>	<b>Financial Support to Freedom Leisure</b>
<b>DECISION TAKEN</b>	<p>To allow Freedom Leisure:</p> <ol style="list-style-type: none"> <li>1. to defer payment of the management fees of £64,000 per month for three months applicable under the terms of their contract during the Covid 19 pandemic and agree an alternative payment plan to repay these fees;</li> <li>2. to be reimbursed £45,436 subject to open book accounting (as per Policy Procurement advice 02/20 issued by the Cabinet Office); and</li> <li>3. to be paid an interest free loan of £180,800 to cover 80% of the furloughed employee costs whilst the Job Retention Scheme is in operation; to be repaid when Freedom Leisure in is receipt of payments from Government</li> </ol>
<b>REASON FOR THE DECISION</b>	<p>Freedom Leisure have responded to the Government direction to close their leisure centres within the Arun District with a consequential significant impact on their income and the future viability of their contract with the Council. Their request to defer payment of their management fees in their current circumstances is considered reasonable.</p> <p>I have exercised my delegated authority in taking this decision as confirmed at Part 4, Section 2 of the Officer Scheme of Delegation in the Council's Constitution at:</p> <ol style="list-style-type: none"> <li>1. paragraph 2.22 to authorise settlement of any potential dispute to safeguard the Council's interests; and</li> <li>2. paragraph 2.11 which confirms that I can incur this expenditure for meeting the purposes of the Local Government Act 1972, S.138 when it is in connection with peacetime emergencies and disasters.</li> </ol> <p>In relation to (1), in my opinion, to delay settlement to obtain instructions from the Cabinet would prejudice the Council's position and could lead to a legal dispute between the Council and its contractor, Freedom Leisure</p> <p>In relation to (2), Section 138(1) of the Local Government Act 1972 confirms that: "Where an emergency or disaster</p>


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	<p>involving destruction or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a principle council are of the opinion that it is likely to affect the whole or part of their area or all or some of its inhabitants, the council may .... (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the UK) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; ....”</p> <p>My decision has been based on advice released by the Cabinet Office in “Procurement Policy Note – Supplier Relief due to Covid-19” (March 2020) and the importance of working with the Council’s partner, Freedom Leisure to ensure the leisure contract can continue post the pandemic to meet the medium/long term welfare and social needs of the community.</p> <p>The payment plan will be subject to ongoing review should the Government’s direction to maintain social distancing during the pandemic continue for the longer term.</p> <p>My decision has been taken in consultation with the S151 Officer.</p> <p>In line with my delegated authority, I was able to brief the Leader of the Council and other Group Leaders ahead of taking my decision, which they supported. The action set out in this Record of Decision will be reported to the Cabinet on 29 April 2020 and to the Council when it is able to next meet.</p>
<p><b>ALTERNATIVE OPTIONS CONSIDERED OR REJECTED</b></p>	<p>To not allow deferral of payment of the management fees which would lead to a potential legal dispute and significant impact on the future management of the leisure contract.</p>
<p><b>ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER OF THE COUNCIL</b>  <i>Only needed if the decision is under an express authorisation</i></p>	<p>None</p>
<p><b>NAME OF THE DECISION TAKER</b></p>	<p><b>Nigel Lynn, Chief Executive</b></p>
<p><b>SIGNATURE</b></p>	

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<b>I support this decision</b>	<b>Group Head of Corporate Support and S151 Officer</b>
<b>SIGNATURE</b>	

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