

# ARUN DISTRICT COUNCIL

## REPORT TO AND DECISION OF CABINET ON 21 SEPTEMBER 2020

**SUBJECT: FINANCIAL SUPPORT TO LEISURE OPERATING CONTRACT**

**REPORT AUTHOR:** Robin Wickham, Group Head of Community Wellbeing

**DATE:** August 2020

**EXTN:** 37835

**PORTFOLIO AREA:** Community Wellbeing

### **EXECUTIVE SUMMARY:**

Freedom Leisure is in receipt of a support package to mitigate the impact of the COVID-19 pandemic on the Council's Leisure Operating Contract. This report sets out the current situation and recommendations for the future viability of the contract.

### **RECOMMENDATIONS:**

Cabinet is asked to approve the following measures:

- a) to recover the forecast income for operating fees as budgeted using the local government income compensation scheme for lost sales, fees and charges as a result of COVID-19; and
- b) recommend to Full Council that a supplementary estimate for a sum up to £191,500 (Band D equivalent of £3.07) to support the Council's leisure operating contract from October to December 2020 be approved.

### **1. BACKGROUND:**

- 1.1 On 21 March 2020 Arun's leisure centres closed in response to restrictions imposed by HM Government to contain the spread of COVID-19. The consequential and significant impact on income threatened the future viability of the Council's Leisure Operating Contract.
- 1.2 On 16 April 2020 the Chief Executive, in consultation with the S151 Officer and in accordance with the Constitution, exercised his delegated authority to defer Freedom Leisure's payment of contractual fees and provide financial support to maintain the upkeep of leisure facilities whilst they remained closed.
- 1.3 The decision was based on advice by the Cabinet Office in "Procurement Policy Note: Supplier Relief due to Covid-19" (March 2020), but also in recognition of the importance of working with Freedom Leisure to ensure the leisure operating contract could continue post the pandemic to meet the medium/long term welfare and social needs of the community.

- 1.4 Freedom Leisure accepted the following support:
- a) a deferral of the operating fee (£66,637 per month) for three months; and
  - b) reimbursement of £45,436 subject to open book accounting (as per Policy Procurement advice 02/20 issued by the Cabinet Office) for the upkeep of the buildings during the closure period.
- 1.5 On 15 July 2020, Full Council reviewed the decision of the Chief Executive and approved an extension to the relief available to Freedom Leisure for the re-opening phase of the leisure centres. This included:
- a) an extension of the payment holiday for the operating fee for the remainder of the financial year (to March 2021) and to extend the contract expiry date to 31 March 2027 to recover lost fees;
  - b) a supplementary estimate for a sum up to £270,000 to support the first three month of the reopening phase of the leisure centres; and
  - c) authority for the Group Head of Wellbeing to apply for and receive support funding that may from time to time become available to support leisure and cultural services affected by COVID-19.
- 1.6 The purpose of the financial support provided by the Council was to enable the facilities to open to the community and for Freedom Leisure to rebuild the service as the restrictions imposed by the pandemic were lifted.
- 1.7 Both decisions were taken in the absence of any support from HM Government. However, in the period since the Full Council meeting in July, the Ministry of Housing, Communities and Local Government has established a compensation scheme for lost sales, fees and charges. This income recovery scheme permits the Council to claim for lost income that has negatively impacted on its financial sustainability; specifically, in balancing budgets for the current financial year.
- 1.8 The scheme requires the Council to absorb five percent of its planned income and it may then claim 75 pence in every pound compensation of the remaining sum. It is proposed therefore that Arun seeks to claim against the income recovery scheme from April 2020 and each subsequent month that Freedom Leisure is unable to pay either the whole or part of the contracted operating fee.
- 1.9 The Council has sought independent legal advice regarding the terms of support for the Leisure Operating Contract and these are stated in Letters of Variation agreed with Freedom Leisure (see background papers). The essence of the Variations is to give relief to Freedom Leisure in accordance with PPN 02/20 to ensure the leisure operating contract remains viable until the COVID-19 restrictions are lifted. Freedom Leisure has agreed to open book accounting and quarterly reconciliation for the support it receives
- 1.10 With this support the Arun Leisure Centre and Littlehampton Wave opened on 25 July. The buildings have been made COVID Secure and an effective track and trace procedure has been operational through the leisure membership scheme.
- 1.11 Freedom Leisure has worked hard to build public confidence, regularly contacting its members and providing social media bulletins. The result has been a better than anticipated return of customers to the Centres with some sessions achieving 100% occupancy rates. Where possible Freedom Leisure has increased the number of sessions for popular activities and reduced others which were poorly attended.

Swimming has been boosted in recent weeks with the introduction of weekend family sessions and these are frequently fully booked. The popular Freedom Swim School will also open for lessons in September.

- 1.12 Between 25 July and 24 August over 20,000 visits were made to the leisure centres. The Arun Leisure Centre received 6,817 and the Littlehampton Wave 13,504. A breakdown of attendances for each of the available activities is detailed in Table 1.

**Table 1. Attendances over 4 Week Period**

		Capacity	Customers	%
Arun Leisure Centre	Swimming	8,735	2,649	30%
	Studio	1,536	1,344	88%
	Gym	7,980	2,824	35%
Littlehampton Wave	Swimming	8,848	4,500	51%
	Studio	2,161	1,746	81%
	Gym	10,829	7,258	67%
<b>Total</b>		<b>40,089</b>	<b>20,321</b>	<b>51%</b>

- 1.13 Despite this success, Freedom Leisure is limited in the numbers that can attend the facilities due to the requirement to social distance and to maintain strict cleaning regimes between sessions. However, there are plans to extend the opening hours and Freedom Leisure is continually adapting its programme to optimise activities whilst balancing the associated costs.

- 1.14 The agreed financial support for the leisure operating contract and the relief payments made to Freedom Leisure are summarised in Table 2.

**Table 2. Relief Payments**

	Agreed Support	Invoiced Sum*
April	45,436	45,436
May	45,436	45,436
June	45,436	45,436
July	67,326	45,436
August	95,244	-
September	104,388	-

\*Subject to open book accounting

- 1.15 The months April to June represent the first quarter which is in the process of being reconciled with Freedom Leisure against actual expenditure in an open book environment. An early assessment indicates that these sums broadly reflect the position projected by Freedom Leisure. July's invoiced sum was lower than anticipated and is based on the previous closed period as the centres only opened on 25 July 2020.

- 1.16 In regard to the support payments, the Council is waiting for a decision from HM Government on whether a fund will be set up to assist Councils with the costs incurred maintaining and opening leisure facilities. It is recognised that Councils play a vital role in the health and wellbeing of the nation and for this reason a proposal has been made to HM Treasury to provide support for the costs incurred since March.
- 1.17 As previously stated, the reduction in income caused by COVID-19 has a temporary, but significant impact on the leisure operating contract. The opening of the leisure centres has been an important milestone, but Freedom Leisure will require ongoing support to run the Council's facilities until restrictions are fully lifted and the income builds to its pre-pandemic level. The risks of not supporting the contract are stated in the Financial Implications (Item 5 below).
- 1.18 Freedom Leisure has projected its loss of income with mitigation for the reduced expenditure. The challenge of income generation whilst operating a facility at reduced capacity is significant as the leisure operating model incurs substantial operating costs. The net cost of operating the leisure facilities with a reduced capacity under the current guidelines for a further three months (October to December) is an estimated sum of £191,441 (see Table 3).

**Table 3. Estimated Net Operating Costs October to December**

October	67,957
November	82,951
December	40,534
Total	<b>191,441</b>

- 1.19 At the onset of the pandemic the minimum cost for the upkeep of the closed facilities was calculated to be £45,436 per month. Leisure facilities, particularly swimming pools are complex buildings and these minimum monthly costs would need to be paid by the Council if the leisure centres were to close again to ensure that the functionality of the buildings is not compromised.
- 1.20 In supporting the facilities, the Council has provided a lifeline for the leisure operating contract to maintain its customer base and protect a crucial revenue stream for Arun. To put this in perspective, the estimated value of the contract support costs to be paid until the end of December 2020 is £594,700. In contrast, between 2016 and 2020 the leisure operating contract generated payments to the Council of £1,693,800 and the remaining five years of the original term (2021 to 2026) the contracted sum will result in payments to the Council in excess of £4,461,700, a sum that is inflated annually by the consumer price index and compounded back to 2016.
- 1.21 The health benefits of exercise and movement have been widely reported. The NHS and HM Government have stated the importance of personal weight management and the higher risk factors associated with obesity following a diagnosis of COVID-19. Clearly leisure centres play an important role in providing the opportunity for people to remain fit and active, particularly during the winter months.

1.22 Freedom has worked hard to provide activities for young people. It has maintained its places for young people in the gym at the expense of adult places, introduced family swims to overcome the guidelines for lane swimming which stipulate a minimum age of sixteen, run athletics and sports coaching in the sports halls, extended the availability of the pools to swim clubs and has been providing multisport activity play sessions in Wick (Littlehampton Town Council funded). As noted earlier, the Freedom Swim School which has a membership of over 1,400 will start again in September and plans to recommence walking sports and kickboxing imminently.

1.23 The situation remains uncertain and extremely unpredictable. A second wave of the virus is widely predicted by health professionals over the winter months. If HM Government introduces further restrictions Freedom Leisure will need to adapt or suspend its operating model accordingly. Support for the leisure contract has to be sustainable and further reports to Cabinet will reflect on the recovery phase and the Council's financial position in respect of ongoing relief for the contract.

1.24 In conclusion, the opening of our leisure centres has demonstrated the Council's commitment to supporting and improving the health and wellbeing of the community. The initial phase of opening the centres has proved popular and patronage has been better than expected. The recovery phase requires Freedom Leisure grow its offer and increase capacity in step with demand to improve income receipts, within the constraints of the guidelines. Further support for the leisure contract will ensure that it has the best prospect of recovering quickly as restrictions are lifted whilst providing the community as Autumn begins with the opportunity to maintain a healthy active lifestyle.

## **2. PROPOSAL(S):**

It is proposed that Cabinet approves the following measures:

- a) to recover the forecast income for operating fees as budgeted using the local government income compensation scheme for lost sales, fees and charges as a result of COVID-19; and
- b) Cabinet recommends to Full Council that a supplementary estimate for a sum up to £191,500 (Band D equivalent of £3.07) to support the Council's leisure operating contract from October to December 2020 be approved.

## **3. OPTIONS:**

3.1 To support the recommendations as set out in the report; or

3.2 Not to support the recommendations.

## **4. CONSULTATION:**

Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council		✓

Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

## **6. IMPLICATIONS:**

**6.2 Financial:** The reopening and continued support of the Leisure Centres has to be viewed in the context of the financial situation we find ourselves in and the effect on the Council's overall financial strategy. Any decision, inevitably, involves an element of risk and we must be asking the contractors to share this business risk and assume responsibility for an element of the financial burden. Their reserves are obviously finite but that also applies to the Council's reserves which also have to support a wide range of essential services. There are too many uncertainties to accurately predict the Council's deficit for this year, but it will certainly be significant and considerably larger than the level of support currently provided by central government and we have a responsibility to mitigate this as much as possible. The negative effect on the Council's financial strategy is exacerbated by the contractor not currently paying their monthly fee which will, to an extent, be mitigated by the government's income compensation scheme. We must also be alert to other risks and one of the most severe would be a second wave of the virus which could cause the Centres to close again. The issues that I have outlined would be exacerbated and we would have to consider whether the situation would be sustainable and if the Council would be in the position to offer the same level of financial support.

**6.3 Legal:** The Leisure Operating Contract is subject to two Letters of Variation reflecting the Supplier Relief due to COVID-19.

## **7. REASON FOR THE DECISION:**

To safeguard the Councils leisure operating contract

To serve the health and wellbeing needs of the community

## **8. EFFECTIVE DATE OF THE DECISION: 30 September 2020**

## **9. BACKGROUND PAPERS:**

- Decision Taken under Officer Scheme of Delegation – Financial Support to Freedom Leisure (16 April 2020)
- Contract Variation - Supplier Relief due to COVID-19  
[Contract Variation – May 2020 – Covid 19](#)  
[Contract Variation – August 2020 – Covid19](#)

