

Crawley Borough Council

Report to Cabinet 10 March 2021

Leisure Contract – Extension of Variation Order

Report of the Head of Major Projects and Commercial Services,
HPS/26

1. Purpose

- 1.1 This report sets out the arrangements the Council has entered into with Everyone Active (EA) following the initial lockdown in March 2020 and recommends the Council extend the variation order to facilitate the continued opening of the leisure centres over the period 1 April 2021 – 30 June 2021.

2. Recommendations

Cabinet is recommended to approve the extension of the contract variation with Everyone Active under the terms set out in section 5.9 of this report.

3. Reasons for the Recommendations

- 3.1 The recommendation facilitates the re-opening of the leisure centres from 29 March 2021 and the phased opening of additional facilities over the coming months in accordance with the Government announcement on 22 February 2021 and in accordance with Procurement Policy Note 02/20 (Supplier Relief Due to Coronavirus).

4. Background

20 March 2020 – 31 March 2021

- 4.1 As part of the Covid-19 response, since 20 March 2020, the Government has required leisure centres to either be fully closed or to be partially open with restrictions applied to capacity, social distancing and other specific measures introduced as part of individual activity risk assessments.
- 4.2 Also on 20 March 2020, the Government published Procurement Policy Note 02/20 (Supplier Relief Due to Coronavirus). This note advised contracting authorities to put in place 'appropriate payment measures to support supplier cashflow and ensure suppliers who are at risk continue to be paid as normal'. Reflecting PPN02/20, the Council agreed a variation order with EA for an initial three-month period (April – June 2020) which would permit non-payment of the contract fee (£76K per month) and underwrite EA's operational costs up to a capped amount. The initial three-month variation was extended for the period 1 July 2020 – 30 September 2020 and again for the period 1 October 2020 to 31 March 2021.
- 4.3 For the most recent agreement, covering the period October 2020 – March 2021, EA's projections had assumed that the leisure centres would be permitted to open

and the growth in attendance evidenced since the July re-opening would continue. On this basis, the requested capped payments from EA over this period were:

October:	£ 72,000
November:	£ 92,000
December:	£100,000
January:	£ 47,000
February:	£ 46,000
March:	£ 22,000

- 4.4 Unfortunately the rise in Covid cases over the winter initially placed additional restrictions on opening and from the beginning of January, has required all leisure centres to close again. This has meant the losses incurred by EA have been greater than the original projections however the Council's contribution has been capped at the agreed level.
- 4.5 In December 2020, the Council, working with EA, submitted an application to the National Leisure Recovery Fund for support towards leisure centre operational costs over the period December 2020 – March 2021. This application was successful and all of the capped deficit payable by the Council over this four-month period (£215,000) was offset by the NLRF grant received by the Council.
- 4.6 Further, guidance issued to s151 officers in August 2020 gave a new income support scheme to cover 75% of losses as a result of lost income due to the pandemic. There is a top slice deductible from 5% of all sales, fees and charges. This funding effectively enables the Council to recover approximately £53,000 of the £76,000 monthly contract fee which would otherwise be payable to the Council.

5. Description of Issue to be resolved

- 5.1 On the 22 February 2021, the Government announced a phased re-opening of leisure centres with effect from 29 March 2021. With social distancing and public health requirements in place, the guidance under PN02/20 continues to apply and it is recommended that the Council extend the contract variation for a further three months (covering the period 1 April – June 30 2021) to enable the phased re-opening.
- 5.2 Subject to continued reduction in the infection rate and numbers of Covid cases, the roadmap for opening leisure centres over the period April – June 2021 will see:
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| 29 March : | Outdoor Activities (3G Pitches / Athletics) |
| 12 April: | Gym, children's indoor sport including learn to swim programme, café (takeaway) |
| 17 May: | Group exercise classes, adult indoor sport, café (indoor table service) |
| 21 June : | Removal of legal restrictions although it seems likely some forms of distancing and measures to continue to suppress the spread of the virus will continue to be required. |
- 5.3 With this phased re-opening, the projected operational deficit over this period is £260,100, broken down as £96,300 (April), £85,500 (May) and £78,300 (June). It is noted that these projections are cautious and based upon the re-opening from July 2021, it is likely that the actual deficit will be less than that projected and the cost to the Council will be lower.

- 5.4 To date, the Deed of Variation which the Council has entered into with EA has enabled the Council to benefit where deficits have been lower than the projected budget costs. This was particularly the case in August, September October and December when there were fewer restrictions and usage was strong. The Council has also benefited from the capped arrangements with any deficit larger than the projection, being met by EA. This was particularly the case from April – July, November and from January – March 2021 when the leisure centres were largely closed.
- 5.5 The contract variation the Council has agreed is somewhat anomalous to the majority of contract variations EA has agreed with other local authority clients. The other contract variations have, on an open book basis, generally seen the Council benefit from the upside of increased usage and income but bear the additional cost when tighter restrictions are applied.
- 5.6 EA are seeking to bring into line the contract variation for the Crawley contract whereby the Council will benefit if the net deficit is lower than projections however if the net deficit is higher than the projections, the additional cost will be met by the Council.
- 5.7 To provide additional controls for the Council, it has been agreed with EA that:
- (i) Should any of the major expenditure items exceed the amount stated in the monthly projections, specific Council authorisation will be required for this expenditure.
 - (ii) EA will present income and expenditure projections to the Council on a fortnightly basis to demonstrate that all reasonable efforts are being made to maximise income and mitigate costs.
 - (iii) Should the overall net deficit exceed the projection in a given month, EA and the Council will commit to a review as soon as reasonably practical which will seek to ensure the deficit in the subsequent month(s) is at or below the projection figure for that period.
- 5.8 The compensation for lost income from the non-payment of the contract management fee will continue over the period April-June 2021. This will continue with an initial 5% deduction from the total lost income, and compensation then apply at a rate of 75% of the amount thereafter.
- 5.9 It is recommended that the Council extends the contract variation (as detailed in section 5) for a three-month period (1 April 2021 – 30 June 2021) including the requirement for the monthly deficit payments projected at up to £260,100. Extending the contract variation for a longer period (6–12 months) is not advisable given market uncertainties over that timeframe. Further, at the point when all distancing restrictions are lifted, the Council will want to return to the standard contract model and contract payments, and it would be prudent to retain the flexibility until more information is known about the process for lifting restrictions in due course.

6. Information & Analysis Supporting Recommendation

- 6.1 The two main alternative options which the Council could consider are to close the leisure facilities or to terminate the existing contract with EA. It is felt that both of these options would be more costly to the Council and would lead to an extended

period of disruption without the service and a longer recovery to return to a normalised service position.

7. Implications

Financial

- 7.1 The Budget and Council Tax 2021/22 [FIN/514](#) report to Cabinet on 3 February 2021 and Full Council on 24 February 2021 Table 2 and section 5.5.4 included £649,217 Covid-19 funding for 2021/22 grant that had been received to help mitigate the losses incurred due to the pandemic. Section 5.5 confirms that with the Leisure Contract, continuation of the 'open book approach' will be required into 2021/22 to the point where social distancing or other Covid prevention measures are no longer required. As part of the quarterly monitoring process during 2021/22 the finance team will report on the draw down from the budget and how it has been allocated.

8. Background Papers

- 8.1 No background papers

9. Report author and contact officer:

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