

Crawley Borough Council

Report to Cabinet 29th September 2021

Leisure Contract – Extension of Variation Order

Report of the Head of Major Projects and Commercial Services, **HPS/28**

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 October 2021 – 31st March 2022.

2. Recommendations

- 2.1 To the Cabinet

The Cabinet is recommended to approve the extension of the contract variation with Everyone Active under the terms set out in section 5.7 of this report.

3. Reasons for the Recommendations

- 3.1 The recommendation facilitates the continued re-opening of the leisure centres providing the opportunity to grow customer base and membership numbers while adhering to the Government's Procurement Policy Note 02/20 (Supplier Relief Due to Coronavirus).

4. Background

- 4.1 As part of the Covid-19 response, between 20 March 2020 and 29th March 2021, the Government required leisure centres to either be fully closed or to be partially open with restrictions applied to capacity, social distancing and other specific infection control measures.
- 4.2 Also commencing on 20 March 2020, the Government published Procurement Policy Note 02/20 (PPN02/20) (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 Deed of Variation (DoV) with Everyone Active 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 deficits. The DoV has subsequently been extended and the current agreement expires at the end of September 2021.
- 4.3 From March 29th 2021, a phased re-opening of leisure centres was permitted on the following basis:

- 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)
 - 19th July: Majority of services to resume as normal albeit with some protocols regarding distancing and other specific disease control measures remaining in place.
- 4.4 With this phased re-opening, the operational deficit over the period 1st April to 30th June 2021 was projected at £260,100, however, the actual take up has significantly exceeded the projections and the actual deficit for the quarter was £51,000.
- 4.5 Everyone Active has reported continued increases in usage in Q2 of the financial year with the return of events and continued growth in membership numbers.
- 4.6 In December 2020, the Council was successful in applying for a grant of £220,000 to the Department of Culture, media and sport (DCMS) to support the costs of re-opening leisure centres. With the subsequent, lockdown between January and March 2021, DCMS required 70% of this funding (£154,000) to be allocated to offset costs in the financial year 2021/22.
- 4.7 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 enabled the Council to recover approximately £53,000 of the £76,000 monthly contract fee which would otherwise be payable to the Council. This scheme expired on 30th June however and there is currently no indication that it will be replaced or extended.

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 six months (covering the period 1st October 2021 – 31st March 2022) to enable the continued phased re-opening and re-building of the customer numbers.
- 5.2 To provide controls on expenditure 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.

5.7 It is recommended that the Council extends the DoV for a six month period (1st October 2021 – 31st March 2022) with the projected monthly deficits over this period being:

- October £23,445
- November £27,744
- December £57,626
- January £35,053
- February £38,147
- March £18,823

5.8 Extending the contract variation for a six month period will provide time for the market to further recover and ensure compliance with PPN2/20. The Council has procured contract advice in respect of the change in law and any potential longer term contract implications. These are however unknown at this point and the 6 month extension of the DoV will provide further time for longer term market implications to be understood and tested.

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 5.5.5 included a provision of £813,000 in respect of additional costs and lost income in respect of Covid-19 funding for 2021/22. In addition to that, there was a provision for lost income due to the pandemic of £300,000 giving a total of £1.13m for current year losses.
- 7.2 The 2021/2022 Budget Monitoring report – Quarter 1 [FIN/531](#) to Cabinet on 8th September 2021 identified a projected budget shortfall of £1.258m (Section 6.1). After applying for Government support at 75p in each £1 which is available for the first quarter of the year this reduces the deficit to £1.008m. This will result in using all of the £813,000 as identified in 7.1 above.
- 7.3 Within the projected budget shortfall, there were projected additional costs and reduced income in respect of the leisure contract of £592,000 for the year. This allows for the use of the £154,000 grant as identified in paragraph 4.6 above. The assumption at that time was assuming some additional support to Everyone Active but that gradually turning into a profit making position later in the financial year resulting in payments being made to the Council.
- 7.4 The projected loss of £592,000 for the year is lower than the estimates received from Everyone Active. The projections submitted by Everyone Active have generally assumed a worst case scenario however and, as evidenced in Q1, the actual results (£51,000 deficit) have been better than the more cautious projections (£260,000 deficit). Assuming the strong return to leisure centre use continues, it would be

reasonable to assume the actual deficit will be lower than the October – March projection of £200,838 shown in paragraph 5.7.

- 7.5 The contract costs will be carefully monitored during the financial year and reported to Councillors through the quarterly monitoring process.
- 7.6 The Medium Term Financial strategy will be reported to Cabinet in November 2021. There is currently no allowance within the strategy for lost income as a result of the pandemic. Were there to be no income from the leisure contract in the next financial year, this would result in lost income of £912,000. This has not been factored into projections at this time. If this level of losses remains budget savings would have to be sought for future financial years. This will be discussed at an all Member Seminar in the Autumn.

8. Background Papers

- 8.1 Budget and Council Tax 2021/22 [FIN/514](#) report to Cabinet on 3 February 2021.

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