

Crawley Borough Council

Report to Cabinet 16th March 2022

Leisure Contract – Extension of Variation Order

Report of the Head of Major Projects and Commercial Services, **HPS/30**

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 2022 – 30th September 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 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, from 20 March 2020, 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 (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 March 2022.
- 4.3 Over the period April – September 2021, Everyone Active reported growth in membership numbers and general usage at the leisure centres (albeit these remained somewhat below the pre pandemic membership and usage). The Omicron

variant did halt the positive trend from the earlier part of the year although indications for the traditionally strong sales period between January and March suggest a return to growth in memberships and usage in the current quarter.

- 4.4 With somewhat intermittent growth and the tapering of Government support for the leisure and hospitality sector, the operational deficit for the financial year 2021/22 is projected to be approximately £170,000.
- 4.5 In December 2020, the Council was successful in applying for a grant of £220,000 to DCMS to support the costs of re-opening leisure centres, 70% of which (£154,000) could be allocated to offset costs in the financial year 2021/22. The net deficit for 2021/22 is therefore projected to be £16,000.
- 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 was 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 2021 and there is currently no indication that it will be replaced or re-introduced.

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 April 2022 – 30th September 2022) to enable the continued re-building of usage and membership 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 April 2022 – 30th September 2022). With the impact of the Omicron variant and the trajectory of future growth in usage somewhat uncertain, it is difficult to make accurate projections regarding usage and income. Although Everyone Active remain more cautious, with positive sales figures in recent months and with the removal of statutory restrictions, it would be reasonable to expect that the leisure contract will return to surplus over the course of 2022/23. Within this context, the Budget Report ([FIN/549](#)) has assumed a net income of £100,000 from the leisure contract for the coming year.

- 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 2022/23 [FIN/549](#) report to Cabinet on 2 February 2022 and Full Council on 23 February 2022 Table 2 and section 5.5.10 included a provision of £1,092,000 in respect of additional costs and lost income in respect of Covid-19 funding for 2022/23. As part of the quarterly monitoring process during 2021/22 the finance team will report on the draw down from the Covid budget and how it has been allocated including the draw down in respect of the Leisure Contract. Paragraph 5.5.10 of the report states that there is an assumption that the Leisure contractor will in part begin paying the council again in 2022/23 and be back to full contract payments in future years with a small allowance in 2023/24 for a reduced contractor payment.

8. Background Papers

- 8.1 Budget and Council Tax 2021/22 [FIN/514](#) report to Cabinet on 3 February 2021.
8.2 Budget and Council Tax 2022/23 [FIN/539](#) report to Cabinet on 2 February 2022

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