

Environment Directorate Town Hall, Upper Street, N1 2UD

Report of Executive Member for Health and Social Care

Meeting of:	Date:	Ward(s):	
Executive	10 February 2022	All	
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Delete as appropriate:	Exempt	Non-exempt	

Appendices 1 and 2 to this report are exempt and not for publication

SUBJECT: Leisure Contract Recovery Report

1. Synopsis

- Leisure Centres resumed operations in April 2021, initially on an incremental basis based on the phased Governments lifting of restrictions through to July 19th when the remaining Qualifying changes in Law imposing restrictions were withdrawn.
- 1.2 The Council had previously developed a financial support package with GLL that sustained the contract throughout the pandemic period where there was "little or no income" extending to the financial year 21/22 to enable it to re-emerge and navigate its way at pace with both consumer demand and confidence
- 1.3 The Council now needs to financially plan for the recovery and maximise the remaining life of the Leisure Contract through to March 2029 having explored various management options prior to supporting GLL. This planning can now be crystalized due to the ending of the COVID restrictions and the outcomes of the Council's negotiations with GLL.

2. Recommendations

2.1 To note the strong performance of GLL to date in terms of contract recovery, as described in Section 4 and detailed in Exempt Appendix 1.

- 2.2 To authorise the Corporate Director for Environment, following consultation with the Executive Member for Health and Social Care to conclude negotiations with GLL on the basis of their proposal to return to contract position by 1st July 2022 and to defer a further portion of the rent for the first quarter to allow recovery to pre-Covid levels. Full details of that are set out in Exempt Appendix 1.
- 2.3 To note the key headlines of the commissioned independent Contract Recovery Report and in particular the analysis of options for future delivery and the recommendation to continue with the current provider. An executive summary of this report is set out in Exempt Appendix 2.
- 2.4 To note the potential financial risks and impact on the service from the ongoing impact of Covid and in particular the Omicron variant along with recent utility price volatility that will have implications on the long term performance of the contract.

3. Background

- The Council having taken legal advice developed two successive Deeds of Variation, which were the contractual amendments enabling it to develop an interim support package to GLL and to protect the long-term financial interests of the Council by deferring rent rather than agreeing it should be waived. The first Deed of Variation covered the first lockdown of summer 2020 and the second was for the subsequent period.
- 3.2 At the time of signing the Second Deed of Variation, it was not known when lockdown 3 would end, and so it was stated to expire on March 31st 2021, but extendable. In the spirit of partnership we continued this through to July 19th's lifting of restrictions. We then commenced negotiations regarding the return to contract position.
- 3.3 GLL have responded to set out (as long as there are no further Lockdowns) and that they would expect that we operate the Open Book account until April 2022. They have then stated that they are prepared to pay a portion of the rent for Quarter 1 April to June 31st 2022 and then revert to full contractual rent payments from July 2022 onwards for the remaining life of the contract to March 2029.

Customer confidence has more recently been impacted by the Omicron Variant Plan B implications. This has resulted in a reduction in usage levels and membership sales throughout the latter part of November and the whole month of December as well as increasing the number of cancellations. Prior to this usage and membership growth had been above target.

January and February are as key to the Leisure sector financially as December is to the hospitality sector, although the restrictions of Plan B have been lifted, there is a time lag that will also affect January finances and usage levels it is hoped that this has been soon enough to capture those New Year's fitness campaign promises.

Full details of this are set out in Exempt Appendix 1.

4. Performance to Date

4.1 Usage

This has been progressing well, customer confidence has been maintained throughout, operating systems and customer interface has been well managed with clear safe operating systems which have been upheld as a model of good practice, this has helped with the return of business.

Usage targets were reset since April 21 once there was a clear Government plan for the sector with 72% usage of Pre- Pandemic levels being achieved by the end of August however despite September usage being beyond the revised targets usage has dropped to 62% compared to 2019 and 72% uptake of Memberships from Islington residents. All facilities have fully reopened now with the added bonus of the inclusion of the newly refurbished facilities at Highbury Leisure Centre and the replacement of two new 3 g 11- a -side pitches at Market Road over the summer.

October and November continued to see strong growth in usage levels until Omicron and the plan B restrictions came into place that have particularly affected December and January.

4.2 **Membership**

Membership Sales have also been performing beyond targets, this was aided at the start by some pent-up demand and dipped over the summer months as is normal with the sector. There was a strong recovery from September through to November. Retention strategies were being developed corporately by GLL as this is consistent across other London Partnerships however we have been subsequently hit by the impact of the Omicron Variant and Plan B since the latter part of November and this has decimated Membership figures in December

Unfortunately as set out below we have had 2 months of reducing membership levels particularly due to the impact of the Omicron variant for December. We are still unclear as to the outcome of this impact as this is our key busy period historically. December saw a similar number of cancellations to normal years however as sales had virtually ceased this has resulted in a membership reduction.

There has also now been a major fire in the Basement of Ironmonger Row Baths which has resulted in the closure of the Spa. The rest of the centre was made operational in under two weeks subsequent to the fire. The impact of this will also have a bearing on the Contract recovery and membership levels but this is too early to assess the full financial and operational impact on the service.

4.3 Financial Performance

Initial cautious targets were soon surpassed as the business was re-started, which led to meeting the annual surplus target by close of Month 4. New targets were set having had sufficient confidence in the growth of the market place and wider impacts of the Nations recovery from the pandemic including the successful roll out of vaccines, return to schools, hospitality and large sporting events which all gave rise to further optimism in the ability of the sector to start to recover more rapidly than initial expectations.

Despite there being full lifting of restrictions, GLL under the governance of UK Active have still maintained a phased approach to lifting capacities so as not to undo the customer confidence

built up throughout. This has seen class sizes increase to 75% from 50%, this approach has also been accompanied with some positive learning from new operating systems such as pre booking slots for some sports which has improved the overall customer experience.

GLL revised initial forecasts between April and July as restrictions were incrementally lifted for the 2021/22 financial year, these projections were far more positive and have been aided by the return of Highbury Leisure Centre. The projections have been surpassed, although still subject to risk as we are operating an Open Book Account whereby the trading outcome will be the rent paid to the Council.

5. Facility Investment proposals

The Leisure Contract has invested £11.5m into the improvement of the Council's Leisure estate since GLL commenced in 2014, there is still £2.7m remaining to invest over the remaining life of the contract, both in their upkeep like the recent replacement of two 11-aside pitches at Market Road and future investments into projects that will spark an increase in uptake The contract is also now starting to realise the full benefit of the Highbury redevelopment since its refurbishment.

6. Contract Recovery Report

- The Council commissioned Max Associates to conduct a review of the Leisure contract performance, pre and post Covid and to review the prospects for contract recovery to support the Council's review of GLL's performance, their financial projections and potential future management options.
- 6.2 The Executive summary can be found in exempt Appendix 2. It has provided the commercial basis for the options for returning to the contract position and has informed the outcome of the response by GLL to our letter in August. This has also been supported in parallel by both internal and external legal support from Sharpe Pritchard solicitors to guide us through the contractual options open to us as we have navigated through this unprecedented period. The legal positioning is detailed further in the report under section 9.
- 6.3 The report assessed reviewed the Contract performance against market benchmarks, its future facility requirements usage and its make up balance resident/transient and also explored alternative management options
 - local authority-trading company (LATC)/locally established trust;
 - in-house delivery.
 - joint venture with neighbouring borough, for example Camden; or
 - re-procure the leisure contract with a different service scope.

7. A new Physical Activity Strategy

7.1 Physical activity has been identified as the "*miracle cure*". There is clear and compelling evidence that being regularly active improves physical and mental health, promotes wellbeing and independence, and enables social connections. However, an important proportion of our

¹ Exercise – the Miracle Cure (2015). Academy of Medical Royal Colleges

residents are not sufficiently active to benefit. There are groups of the population that are less active compared to others, including young girls, people on low incomes, people with disabilities, older people, and people from certain minority ethnic groups. COVID and the associated lockdowns has also had a disproportionate impact on those inactive groups, further increasing levels of inactivity and increasing health inequalities.

As a key part of the Council's Fairer Together commitment the Council is seeking to develop a new Physical Activity Strategy to target our resources at helping residents in greatest need to improve their physical and mental health and wellbeing by leading more active lives. This will be developed this year.

It will look at finding new ways to deliver physical activity, help embed being active into people's everyday lives, offer targeted support to groups made more inactive due to Covid such as children and young people and people with disabilities and support early intervention and prevention of health conditions.

8. Implications

8.1 Financial implications:

During the period of the pandemic from March 2020 to June 2022 the council has deferred the annual rental payment which becomes repayable from future surpluses generated. Recovery has been better than anticipated and it is expected that a surplus will be generated in 2021/22 during this period of rent deferral. This will not be the full rental position, but a portion of it.

During the period from April 2020 to June 2021 the council received government support for loss of income totalling 71.25% of income lost. We will not be seeking to recover the deferred rent from GLL that has been covered by this grant. GLL have also received grant from the National Leisure Recovery Fund that will further contribute to their Islington financial position.

There are a number of other items contained in the report around future leisure estate development, Sports development options and energy price issues that will need to be considered as part of a separate decision but will have financial implications.

8.2 **Legal Implications:**

- 8.2.1 The London Borough of Islington ("the Council") has a Leisure services contract with GLL under which services are provided for 15 years from 1st April 2014 until 31st March 2029 ("the Contract"). It has no provision for further extension.
- 8.2.2 The Contract would now be treated under current public procurement rules as a services concession contract, however at the time it was tendered, the separate concession regulations did not exist and it was advertised as a standard public services contract.
- 8.2.3 As outlined in the body of the report, the Council has entered into two successive Deeds of Variation providing COVID-related support to the leisure operator GLL, both deferring the Rental Payments the Council would normally receive and meeting some of GLL's costs where not covered by other funding streams such as the government's furlough schemes.

8.2.4 Other sections of the report do not have any legal implications. More detailed legal implications covering the contract position are contained within Exempt Appendix 1.

8.3 **Environmental Implications:**

There are no immediate environmental implications arising from the decision. Future facility development proposals will need to take account of the Council's Net Zero Carbon Strategy.

8.4. **Equality Impact Assessment:**

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

An Equalities Impact Assessment has been completed and is attached at Appendix 3. The service is incrementally returning, we restarted Health suites so all facility types are now operational, as centres get busier more classes are being reintroduced in line with demand which enables a more diverse offer. We have restarted 50plus mornings at Sobell and delivered a very successful Free Swimming lesson programme over the summer with over 1500 participants. The success of this programme was also added to by including a Youth employment programme with Lift that saw 12 young people complete a Lifeguard course and then 5 of them gained employment over the summer period. Membership make up comprises 52.8% women and 8.8% of members are disabled. Outreach classes in the community have begun with 10 classes restarted in September.

9. Conclusion and reasons for recommendations

9.1 Despite the challenges to the sector and the multiple and extended lockdowns, GLL has worked effectively in a spirit of partnership with the Council to oversee a strong and sustainable recovery. There is still further to go and Covid is still very present as indicated across December and January, however there is good reason to be optimistic about the future position of the contract.

9.2 The opening offer to GLL and the response gives a strong basis for negotiating the detail. The extension of support in terms of further deferral of rent to the end of June is deemed reasonable. This would allow for a stronger recovery given that the January to March peak period of sales is so critical in terms of growth.

The recommendation is to authorise the Corporate Director for Environment to continue negotiations with GLL based on their proposal to return to contract position by 1st July 2022 and to defer a portion of the rent for the first quarter to allow recovery to pre-Covid levels. Full details of that are set out in Exempt Appendix 1. This would mean that there is a fair shift of risk back to GLL in a phased way that allows for a return to the full contract position. The Council would not achieve those levels of rent by re-tendering the contract in the current market and all other options would lead to significant additional costs and risk. The recommendation therefore is to conclude negotiations with GLL as the incumbent provider.

Appendices

Exempt Appendix 1 – Contract and Financial Performance Exempt Appendix 2 - Leisure Contract Recovery Report Appendix 3 – Equalities Impact Assessment

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Background papers: none

Signed by:

31 January 2022

Executive Member for Health and Social Care Date

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