

Subject:	Get Socially Active		
Date of Meeting:	30th July 2020		
Report of:	Deb Austin, Interim Executive Director Families, Children & Learning		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that information required to update the future delivery model could not be confirmed and was unavailable in sufficient time to comply with the normal timetable for publication.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The purpose of this report is to provide an update on the [Policy & Resources Committee](#) recommendation (ii) below, which was agreed in addition to the recommendation to in-source adult and community learning from 1st August 2020.
 - (ii) Take forward the option to bring in-house two externally funded projects, Step by Step and Get Socially Active projects and manage TUPE arrangements and subsequent liaison with funders.
- 1.2 Both of these projects are currently managed by the Friends Centre, who are winding down operations with a view to cease trading on 31st July 2020. The Trustees have advised the Council that they will put the Friends Centre into Administration on this date. The purpose of this briefing is to update Leaders on why the option of bringing Get Socially Active in-house is not recommended.
- 1.3 The Friends Centre are keen for the Get Socially Active project to continue until the contract ends on the 31 March 2022 to enable participants in the city and wider area including Newhaven to be able to continue to access the project services. The Friends Centre are keen to transfer potential liabilities to the council where possible due to their challenging financial position.
- 1.4 Attention is drawn to the content of the earlier report in relation to Adult and Community Learning on the Agenda also relating to the Friends Centre and concerning Adult and Community Learning Service.

2. RECOMMENDATION

- 2.1 The recommendation is not to take forward the option to bring in-house the Get Socially Active Project due to the resources required to manage the project and the risks attached to the funding requirements.

3. Context/ background information

- 3.1 The Get Socially Active project is funded by the European Social Fund and the National Lottery Community Fund. It started in 2016, initially for 3 years. In 2019, the Friends Centre was awarded a maximum additional amount of £265,143.97 to further extend the delivery of the project. It is currently funded to June 2022.
- 3.2 The Friends Centre is the lead organisation for this project, they have a partnership agreement in place with Sussex Community Development Association (SCDA) in Newhaven until 28 February 2022. The Friends Centre are solely responsible to The National Lottery Community Fund/ESF to deliver the project in accordance with The National Lottery Community Fund/ESF terms and conditions.
- 3.3 The purpose of the partnership is to promote social inclusion and combat poverty by supporting participants into employment in Newhaven, and Brighton & Hove areas and the project provides a one to one coaching support service that helps support individuals into work through an individualised action plan, identifying and addressing barriers to work and learning. It also helps them to navigate and access local training and services that could help with confidence, managing stress, basic skills such as ESOL, maths and English and general employability skills. During the first three years of the programme intensive support was provided to 103 residents.
- 3.4 Two part-time staff are currently employed by the Friends Centre to deliver this project. A project co-ordinator is funded to 31 March 2022 and a project worker funded to 31 January 2022.
- 3.5 The Friends Centre advise that the funders have agreed in principle that the project grant of £80,639 could be transferred to BHCC, which will enable the project to continue until 2022.
- 3.6 Under the terms and conditions of the grant from the Lottery Fund and ESF the FC must seek written agreement of the funders should it wish to change ownership control of the business of the organisation, transfer assets or merge with another organisation. Further the FC must obtain the written consent of the funders to the transfer any part of the grant or the Grant Agreement or any rights under it to another organisation or individual. This is a prerequisite to any transfer by the Friends Centre.
- 3.7 If the transfer was approved BHCC would assume the following responsibilities under the terms of the grant.
- (i) Sole accountability to the National Lottery Community Fund/ESF for future and past delivery of the project in accordance with The National Lottery

Community Fund/ESF terms and conditions.

- (ii) A new partnership agreement with SCDA will need to be negotiated (subject to their agreement).
- (iii) Management of the staff and redundancy payments of the staff at the end of the term. Redundancy payments cannot be met from the project fund.
- (iv) Secure retention of all financial records and participant and outcome evidence until December 2034.
- (v) Contract management including regular reporting of outcomes, outputs and results.
- (vi) Financial management - the Finance Manager at the FC was due to dedicate up to one day a month to manage this project which was not costed into the current operational budget). Banking arrangements will need to be established to meet the requirements of funders.

3.8 The following risks are associated with the Get Socially Active Project.

- (i) The Friends Centre may not be able to transfer as the lottery fund may withhold consent. The Funders may demand repayment of all or any of the grant if it is likely that the FC will have to stop operating, may be dissolved, or is likely to be put into administration receivership or liquidation, or is about to arrange with, or guarantee a Trust Deed, with their creditors.
- (ii) The council would need to exercise due diligence in assuring itself that the contract has been properly managed throughout its term and would need to obtain appropriate guarantees from the FC as to any potential liability which may have arisen during the stewardship of the FC. Some form of security would need to be put in place to ensure that any liability which devolves on the council can be recovered from the FC. This might be difficult in view of their financial situation.
- (iii) The impact this would have on the SCDA and any ongoing initiatives also needs to be considered.
- (iv) Advice from the council's employment lawyer is that TUPE will not apply to the staff. Exceptional arrangements would need to be agreed with HR if the staff currently performing these roles at the FC were to be slotted into new roles. Exceptional arrangements may not be agreed.
- (v) EU funding is complex and the Principal of the Friends Centre who manages the budget, contract, partnership relationship management and line manages the project staff is not entitled to TUPE to the council. The council has limited capacity to manage this project due to the challenging timescales of insourcing adult and community learning.
- (vi) If SCDA do not agree to enter into a new agreement, BHCC will be solely responsible for delivering the project, which may not be achievable.

- vii) If the project outcomes are not achieved the council will not be able to draw down anticipated income and will be responsible for costs incurred and potentially liable for returning funding, if targets are not achieved.

3.9.1 The following benefit is associated to this project.

The project will continue until its natural conclusion in 2021 and residents will continue to benefit from the services offered through this project.

6. CONCLUSION

6.1 In conclusion it does not appear that it is viable for the project to be transferred to the council due to the significant risks highlighted above. The loss of service to the city would be naturally disappointing, however, in weighing up the benefits and risks, the risks and costs of transferring the service to the council are disproportionate. Instead the council should seek to deliver services to the target group within the city by other means.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The transfer of the Get Socially Active programme to the Council would expose the council to significant financial risks for the remainder of the contract. As stated in the body of the report, the funding streams are not secure and additional resources would need to be found in order to meet the new obligation.
- 7.2 The recommendation of the report, not to transfer the programme to the Council would result in no financial impact or risk to the Council.

Finance Officer Consulted: David Ellis

Date: 16/07/20

Legal Implications:

7.3 The Funding Agreement entered into by the Friends Centre with the European Social Fund and the National Lottery Community Fund in respect of the Get Socially Active Programme, contains a provision that consent has to be obtained in writing to the transfer of the Agreement to a third party. Although the Friends Centre have indicated that the Funders have no objection in principle to the transfer, no formal application has been made by the Friends Centre to the Funders. Until that consent is confirmed in writing by the Funders no transfer can properly take place. The risks associated with the transfer of responsibility for the delivery of the Programme to the council, which would encompass the entire funding period from inception of the Programme, are set out in the body of the report.

Lawyer Consulted: Judith Fisher 14 July 2020

Equality implications:

7.4 The purpose of this project is to promote social inclusion and combat poverty through a range of approaches, as outlined above. Given the aim of supporting

vulnerable and disadvantaged people, officers should explore what other options are already available in the city and whether some current and potential beneficiaries may be able to access those. Given the current limitations created by the COVID19 pandemic and the financial impacts on a number of service providers it may not be possible to find suitable alternatives for everyone and therefore there will be negative impacts. Data from the existing project should be assessed to see whether people sharing specific characteristics may be disproportionately affected, and this data could be used to help prioritise how alternative options are provided.

Sustainability implications

7.5 None

Brexit implications

7.6 The UK use the European Social Fund funding to reduce inactivity among young people and the long-term unemployed and to improve training and skills. As the UK has left the EU this fund will end. The Government has pledged to set up a Shared Prosperity Fund to “reduce inequalities between communities”. The Government has not yet published its consultation on the Fund.

