

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 39

Subject: Freedom Leisure Contract - Response to Increased Energy Costs

Date of meeting: 3rd November 2022

Report of: Executive Director, Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 Wealden Leisure Ltd trading as Freedom Leisure (a not for profit leisure trust) manage the council's sports facilities under two contracts. The contracts consist of the operation and management of 7 leisure centres and 4 paddling pools/water features.
- 1.2 Under the terms of the contracts Freedom Leisure as the service provider are responsible for all the operational costs and expenditure associated with the delivery of the service. They also retain any income generated.
- 1.3 The Council, in normal operating circumstances, receives an annual management fee. The current contract is due to expire on 31 March 2026.
- 1.4 The impact of the utility crisis is placing significant strain on the financial viability of Freedom Leisure and their ability to deliver the contract. This is being experienced by leisure centre operators across the country and has led to some closures elsewhere.
- 1.5 In response to this and to ensure the continued operation and delivery of the services provided by the facilities Freedom Leisure have proposed a variety of mitigation measures for consideration.
- 1.6 The proposals should be viewed in the context of the very challenging financial position facing both Freedom Leisure and the Council. The proposals aim to reduce expenditure and where possible increase income across the leisure facilities to enable them to remain open and operational.

2. Recommendations

That the Tourism, Equalities, Communities and Culture Committee:

- 2.1 Notes the contents of this report in relation to the increased costs faced by leisure operators across the UK linked to the energy supply crisis.
- 2.2 Agrees that it is necessary to support Freedom Leisure to ensure their continued viability and the delivery of the Sports Facilities Contracts.
- 2.3 Recommends to the Policy & Resources Committee that it authorises the Executive Director of Economy, Environment and Culture to implement the mitigation measures outlined in this report at paragraphs 3.18 and 3.23.
- 2.4 Recommends to the Policy & Resources Committee that it notes that the various measures will be reviewed by officers every six months and that it authorises the Executive Director of Economy, Environment and Culture to make revisions and changes to the arrangements based on the ongoing impact, cost and potential changes to utility prices.

That the Policy & Resources Committee:

- 2.5 Notes the contents of this report in relation to the increased costs faced by leisure operators across the UK linked to the energy supply crisis.
- 2.6 Agrees that it is necessary to support Freedom Leisure to ensure their continued viability and the delivery of the Sports Facilities Contracts.
- 2.7 Authorises the Executive Director of Economy, Environment and Culture to implement the range of mitigation measures outlined in this report at paragraphs 3.18 and 3.23.
- 2.8 Notes that the various measures will be reviewed by officers every six months and authorises the Executive Director of Economy, Environment and Culture to make revisions and changes to the arrangements based on the ongoing impact, cost and potential changes to utility prices.

3. Context and background information

Sports Facilities Contract

- 3.1 The sports facilities included within the Sports Facilities Contract are:
 - King Alfred Leisure Centre
 - Moulsecoomb Community Leisure Centre
 - Paddling pools (Hove Lagoon, King's Road, The Level Water Feature Saunders Park)
 - Portslade Sports Centre (added from 2016)
 - Prince Regent Swimming Complex

- Stanley Deason Leisure Centre
- St Luke's Swimming Pool
- Withdean Sports Complex

- 3.2 Freedom Leisure commenced operation of the Sports Facilities Contract on 1 April 2011 and initially under the terms of that contract a payment was made by the Council to Freedom Leisure. Following the capital development at Withdean Sports Complex in 2013, the arrangement was varied resulting in a financial return to the Council (to support the payment of the capital loan).
- 3.3 There was provision in the original ten year contract for an extension of the initial term by up to five years. The contract has been extended twice following decisions at Policy & Resources committee (once in August 2020 for a three year period and more recently in July 2022 for a further two years). The current contractual arrangement therefore exists with Freedom Leisure until 31 March 2026.
- 3.4 Within the contracts any extension requires that the parties 'discuss and use reasonable endeavours to agree any variation to the Management Fee which is reasonable to take account of any material changes in the costs of the Contractor in providing the Services. This negotiation will take into account previous financial performance (if applicable) and the expected cost of providing the service which will apply for the remainder of the contracts.
- 3.5 This happened in relation to both extensions however, since the current fee was agreed, the unmitigated energy crisis has arisen and Freedom Leisure has sought to revisit the management fee arrangement.

Impact of Covid-19 Pandemic

- 3.6 Covid-19 had a significant impact on the operation and management of the Council leisure facilities. However, the leisure centres have seen improvements in usage and participation and have recently been operating at an average of 85% of pre-covid levels.
- 3.7 Despite the impact on the operation of the service, recovery was progressing well. However, the current cost of living crisis and impact of the war in Ukraine specifically in relation to utility costs has provided an untenable position.

Utility costs

- 3.8 Within the recent Sports Facilities extension report (TECC June 2022) it was referenced that the risk of utility costs would sit with Freedom Leisure as the facility operator. It was also highlighted that, at that stage, the price was fluctuating erratically and prices would need to stabilise by September 2022 when Freedom Leisure's fixed price contract expired.

- 3.9 Unfortunately, the situation globally in relation to the energy crisis has rapidly escalated and the current costs are so high the impact on Freedom Leisure as a non for profit trust with almost no assets and minimal financial reserves is unsustainable.
- 3.10 Freedom Leisure has therefore approached all of their Local Authority partners to ask for support to ensure they can keep the facilities open and remain viable as an ongoing business.
- 3.11 Freedom Leisure have asked the Council to consider providing further financial support to cover the significant increase in utility costs as set out within this report. Without some form of intervention from the Council, the operation of the leisure services as currently delivered will be placed at risk.
- 3.12 Freedom Leisure's current utility tariffs expire in September 2022 (gas) and October 2022 (electricity). When trying to re-let and fix for the next 3-4 years the market has been so volatile that they could only secure the supply of energy from one provider.
- 3.13 The unit costs quoted escalated from less than 2p per Kwh for gas to around 12p/Kwh and from under 14p/Kwh for electricity to approximately 44p/Kwh. Combined with standing charges and the Climate Change Levy (CCL) the figures were far in excess of anything that had been costed or anticipated.
- 3.14 It was hoped that the Energy Bill Relief Scheme (announced on 21 September 2022) would provide some much needed support for the next 6 months.
- 3.15 Although this has helped – the cap is only on the wholesale commodity element which equates to approximately one third of the bill and is still considerably higher than the current rates. Freedom Leisure have provided historical consumption figures and based on predicted usage it is estimated that the additional utility costs for the remainder of 2022/23 (from October 2022) with the 6 months capped support will be an increase of circa £425k.
- 3.16 After 6 months the future is very unclear, however depending on the support provided by central government the annual figure could be an increase of around £1 million against the estimated sum allocated within the current contract.
- 3.17 Supporting the continued operation of our leisure centres in 2022/23 and 2023/24 through direct financial support is not an option in the current financial situation. Therefore, a number of mitigation measures that could be delivered to help support the continued operation of the facilities have been discussed which are highlighted below.
- 3.18 Mitigation Measures needing to be implemented immediately:
- To waive the management fee owed to the Council for 22/23 and 23/24.

- To implement an ongoing payment holiday for the solar electricity generated by the recently installed Photo Voltaic (PV) panels at Withdean Sports Complex and Stanley Deason Leisure Centre
 - To close the saunas at Withdean Sports Complex
 - To pause the appointment and recruitment to the vacant Technical Assistant post and Active Communities Manager post
 - To review the existing staffing structures and consider changes in relation to support staff.
 - To keep heating systems off for as long as possible.
 - The early introduction of inflationary linked fees and charges increases from January 2023 (instead of April 2023).
 - A change to the normal/contractual Christmas opening times.
- 3.19 In terms of the fees and charges for the Sports Facilities there is a formula within the contract used to calculate the inflationary price increase linked to the All Items Retail Prices Index Excluding Mortgage Interest Payments (RPIX). The contractual maximum increase that has been calculated and therefore could be implemented for 23/24 is currently 12.44%.
- 3.20 A table summarising the predicted and potential savings outlined above is enclosed in Appendix 1 (of the part 2 report).
- 3.21 A summary of the proposed fees and charges (to be implemented from January 23) is enclosed in Appendix 2.
- 3.22 Recognising the cost of living crisis and impact on low income households Freedom Leisure have agreed to hold and not increase the membership fee for the Leisure Card and propose to increase leisure card prices at a lower rate of 4-5%.
- 3.23 Mitigation Measures needing to be reviewed further and implemented as required (depending on the emerging financial picture)
- To implement a soft play facility at Withdean Sports Complex, as recommended in the Sports Facilities Investment Plan. This would increase the family offer, participation levels and generate additional income. Please note this would require converting two of the six current squash courts. Therefore, there is a need for further investigation and consultation before proceeding with the potential delivery. Capital budget approval has previously been agreed at the Policy & Resources committee on 11 February 21.
 - To investigate and consider the introduction of ANPR and car parking charges at Withdean Sports Complex for non site (leisure centre and pub) customers. Please note, one of the car parks operates as an informal Park and Ride facility, although the land is managed by Freedom Leisure.
 - To waive the 50% income share receipts anticipated to be paid to the council from future developments on the site – such as padel, 3G and soft play.

- Once implemented look to provide a payment holiday on the electrical energy created by any new solar/PV systems
- 3.24 A table summarising the predicted and potential savings outlined above is enclosed in Appendix 3 (of the part 2 report).
- 3.25 Over the last few years both the council and Freedom Leisure have made improvements to the facilities to increase the energy efficiency by investing in the facilities.
- 3.26 Measures already Implemented (by Freedom Leisure) to try and reduce energy usage include:
- A recent reduction in opening hours (Please see table in Appendix 4)
 - A reduction in sauna & steam room opening hours at Prince Regent and Withdean - in line with usage/demand
 - New LED lighting installed at King Alfred in Sports Hall 2
 - Small changes to boiler operating temperatures and hot water systems
 - Installation of a new pressurised dosing controller at Prince Regent - allowing circulation pumps to run at lower speeds
 - Changes to all air conditioning operating temperatures
 - Review of pool filter backwash programmes - to control unnecessary water loss and associated gas consumption through heating
 - New control panel at Prince Regent - allowing better management and control of boiler house and associated plant
 - New LED lighting in the indoor tennis court area at Withdean
 - Replacement pool covers at Prince Regent (awaiting installation date)
- 3.27 Enclosed within the background documents there are a number of articles from governing bodies and leisure industry experts highlighting the issue. This is not an isolated issue to either Freedom Leisure or Brighton & Hove City Council. It is a macro economic issue and currently a major threat to the sport and leisure industry.
- 3.28 Other local authorities in the surrounding areas have already increased fees and charges on some activities and services within their leisure centres by a second increase this year by the current inflationary figure.
- 3.29 The new charges being proposed are similar to other contracts being managed by Freedom Leisure. Also, when looking at benchmarking, the price of an adult non member swim (as an indicator) is comparable with other local authority providers in the south east.

4. Analysis and consideration of alternative options

- 4.1 Energy crisis meetings and discussions in relation to mitigation measures have been on-going with Freedom Leisure to seek a solution to the current very difficult financial situation to enable a financially balanced position to be achieved.

- 4.2 A host of mitigation measures have been suggested, discussed and reviewed with a number of alternative options considered unacceptable these include:
- A temporary closure of part or whole of one or more of the Council's Leisure Centres
 - The closure and non opening of the paddling pools in Summer 2023 or the removal of the paddling pools from the current contract
 - Removal of the current Freedom Leisure Maintenance Resource
 - Removal or reduction from the contract of the Planned Preventative Maintenance obligations
 - Lowering of the pool water temperatures
 - A swimming surcharge on £1/swim
- 4.3 In the current economic climate supporting Freedom Leisure to deliver the existing services is considered to be a more stable and appropriate solution than the other alternative options which include considering the transfer of the services back in house or creating at very short notice a local authority trading company.
- 4.4 If the operation of the leisure centres were brought back 'in-house' at this time the increase in costs faced by Freedom Leisure would also be faced by the Council if it were the operator. Furthermore, the Council would be unlikely to benefit from the economies of scale and purchasing power that Freedom Leisure can across multiple contracts and sites.
- 4.5 Most procurement processes of new service arrangements also take up to two years with dedicated resource including a six month mobilisation period to enable a smooth handover between potential service providers.

5. Community engagement and consultation

- 5.1 Not applicable

6. Conclusion

- 6.1 Agreeing the implementation of the proposed mitigation measures in light of the current challenging financial position in relation to the national energy crisis will enable the continued operation of the Sports Facilities Contract by Freedom Leisure.

7. Financial implications

- 7.1 These are included in Part 2 of this report.

Name of finance officer consulted: John Lack Date consulted :20/10/22

8. Legal implications

- 8.1 The proposed variation to the Management Fee is within the scope of the original contract and is therefore a contract modification which is permitted by the Public Contracts Regulations 2015. The other changes to the services are also permitted pursuant to Regulation 72 as they are not considered 'substantial'.

Name of lawyer consulted: Alice Rowland Date consulted: 21/10/22

9. Equalities implications

- 9.1 The council seeks to provide a range of opportunities for residents to participate in sport and community activities across the city. Sports facilities are fundamental to that provision.
- 9.2 If facilities close there will be an impact and loss of a host of numerous targeted sessions currently offered by Freedom Leisure including those with protected characteristics.
- 9.3 The Leisure Card as an income means tested card for residents of Brighton & Hove will still be provided by Freedom Leisure with discounts of upto 40% providing a lower cost way of accessing the sports facilities both on a pay and play and member basis. The membership cost has been held for 23/24 and lower than inflationary increases applied to activities.
- 9.4 Not appointing to the vacant Active Communities Manager has potential implications in relation to delivery of the Active Communities Plan (ACP) that Freedom Leisure deliver. Many of the ACP sessions and activities are provided to support a wide range of targeted groups within local communities. Also the team support the NHS with social prescribing and GP exercise referral schemes. However, the post has been vacant for a few months already and new SEND sessions have still been added into various programmes by the existing team. New sessions include specific signed swimming lessons for hearing impaired children and badminton sessions to support people with mental health issues.

10. Sustainability implications

- 10.1 A key focus of this report is the financial sustainability of the Sports Facilities Contract. However, there has been significant investment in the sports facilities to improve environmental sustainability such as LED lighting, inverters on pumps and more thermally efficient glazing.
- 10.2 Replacement LED lighting works to the sites are also proposed from funding that was applied for and successfully secured from the council's Carbon Neutral Fund. One scheme has already been delivered at Withdean Sports Complex and specifications for others at Portslade Sports Centre and Stanley Deason Leisure Centre are currently being developed.
- 10.3 Site by site energy audits have also recently been commissioned by

Freedom Leisure in partnership with Brighton & Hove City Council to assess the current energy usage of the sites and consider what other capital investments could be implemented to improve the energy usage of the sites. Some of the recommendations are already being costed with a view to being delivered. Others require significant capital funding and will need to be considered further.

- 10.4 Solar power generation has already been implemented at two of the leisure sites to reduce the reliance of energy from the National Grid. Further conversations are progressing in relation to undertaking feasibility work in respect of installations at other sites such as Prince Regent Swimming Complex (PRSC), Portslade Sports Centre and Moulsecoomb Community Leisure Centre. This would be a huge benefit – especially at PRSC support the huge requirement for energy to operate the swimming pools.
- 10.5 Other measures taken by Freedom Leisure include:
- Environmental awareness training of staff
 - Following and implementing guidance provided by governing bodies such as Sport England, UK Active and Swim England.

11. Other Implications

Public health implications:

- 11.1 The sports facilities in the city are a vital provision enabling regular participation in sport and physical activity. The Covid-19 pandemic has increased the awareness and importance of regular participation in sport and physical activity for people's health and well-being.
- 11.2 The BHCC Health and Wellbeing Plan, Corporate Plan and Sports Facilities Investment Plan all demonstrate the desire for Brighton & Hove to be a healthy and active city. This includes using our built environment as well; as our natural assets – such as the seafront (blue spaces) and parks (green spaces). The sports and leisure facilities operated by Freedom Leisure on behalf of the council, therefore provides opportunities for our residents to follow active and healthy lifestyles.

Supporting Documentation

Appendices

1. 2022-2023 Mitigation Measures (part 2)
2. Proposed Fees and Charges for 23/24
3. 2023-2024 Mitigation Measures (part 2)
4. Summary of changes to opening hours (implemented October 22)

1. Background documents

1. Pages with links to relevant Leisure Industry Utility Crisis Articles.

