

Brighton & Hove City Council

Culture, Heritage, Sport, Tourism & Economic Development Committee

Agenda Item 30

Subject: Freedom Leisure Contract - Update on current position in relation to energy costs and mitigation measures

Date of meeting: 9th November 2023

Report of: Executive Director, Economy, Environment & Culture

Contact Officer: Name: Mark Fisher
Email: Mark.fisher@brighton-hove.gov.uk
Name: Kerry Taylor
Email: Kerry.taylor@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The impact of the utility cost crisis last year (and ongoing) has placed significant strain on the financial viability of our Leisure Management Operator Freedom Leisure and their ability to deliver the council's leisure centre contract. This is also being experienced by leisure centre operators across the country and has led to some facility closures elsewhere.
- 1.2 In response to this, and to ensure the continued operation and delivery of the services provided by the facilities, the council have supported Freedom Leisure over the last year with a variety of mitigation measures.
- 1.3 The mitigation measures proposed were viewed in the context of the very challenging financial position facing both Freedom Leisure and the council.
- 1.4 The proposals aimed to reduce expenditure and where possible increase income across the leisure facilities to enable them to remain open and operational.
- 1.5 As requested at the Tourism, Equalities, Community & Culture Committee previously on 3 November 2022 this report provides an update on what has happened over the last year since the mitigation measures were agreed by the council and the current leisure contract position.

2. Recommendations

That the Culture, Heritage, Sport, Tourism & Economic Development Committee:

- 2.1 Notes the lifting of mitigation measures that have been or are being lifted in agreement with Freedom Leisure by the end of the financial year 2023/24.

- 2.2 Notes the grant applications for additional revenue and capital financial support through the government's Swimming Pool Support Fund (SPSF) managed by Sport England.
- 2.3 Notes the contents of this report in relation to the work delivered by both Freedom Leisure and council Sports Facilities teams over the last year in respect of the energy mitigation measures undertaken to ensure the sports facilities continued to remain open for residents.

3. Context and background information

The Sports Facilities Contract:

- 3.1 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.
- 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). The Council, therefore in normal operating circumstances, receives an annual management fee.
- 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 last year in July 2022 for a further two years). The current contractual arrangement therefore exists with Freedom Leisure until 31 March 2026.
- 3.4 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.
- 3.5 Post Covid -19, service recovery was progressing well. However, the cost of living crisis and impact of the war in Ukraine specifically in relation to utility costs provided an untenable position in the Autumn of 2022.

Utility costs:

- 3.6 In September 2022 and October 2022 the 3 year fixed gas and electricity tariffs that Freedom Leisure had previously secured came to an end. When trying to re-let and fix for the next 3-4 years the market was so volatile that they could only secure the supply of energy from one provider.
- 3.7 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 when entering into the contract extension with the council.

- 3.8 The Energy Bill Relief Scheme (announced in 21 September 2022) provided some support although based on the historical consumption figures and predicted usage it was estimated that the additional utility costs for the remainder of 2022/23 (from October 2022) would still be an increase of circa £425k and an increase of potentially over £1 million in 2023/34.
- 3.9 Freedom Leisure therefore approached all of their local authority partners for support to ensure they could keep the facilities open and remain viable as an ongoing business. Without some form of intervention from the council, the operation of the leisure services as delivered was at significant risk.
- 3.10 A report was taken to the TECC committee in November 2022 and Policy & Resources committee in December 2022 seeking support to ensure the continued operation of our leisure centres in 2022/23 and 2023/24 due to the unprecedented utilities cost increases and impact from the situation in Ukraine.
- 3.11 Due to the challenging situation also facing the council, this support was not through any direct financial payment but via a number of recommended mitigation measures that had been proposed by Freedom Leisure. These mitigations and their associated implications were carefully considered and viewed to potentially provide enough support to help to deliver the necessary savings with the least negative impact on service delivery.

Mitigation Measures:

- 3.12 The mitigation measures that were agreed and implemented were:
- Waiving the management fee normally paid to the council for 2022/23 and 2023/24.
 - Implementing an ongoing payment holiday for the solar electricity generated by the council installed Photo Voltaic (PV) panels at Withdean Sports Complex and Stanley Deason Leisure Centre.
 - Pausing the appointment and recruitment to the vacant Technical Assistant post and Active Communities Manager post
 - Reviewing the existing staffing structures and considering/making changes in relation to support staff.
 - Keeping 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.
- 3.13 These mitigation measures were all implemented alongside other measures already delivered and planned by Freedom Leisure to reduce energy usage including:
- A reduction in opening hours (based on demand)

- 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 (sports hall 2) and Withdean (indoor tennis courts).
- 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.
- Replacement pool covers at Prince Regent.

3.14 Other carbon neutral capital projects by the council including projects delivered by the council have included:

- New LED lighting installed at, Withdean (outdoor tennis courts), Portslade Sports Centre (sports hall 1), and Stanley Deason Leisure Centre (sports hall and astro turf floodlights)
- New control panels allowing better management and control of the boilers at King Alfred Leisure Centre
- New more efficient boilers at St Lukes Swimming Pool and Prince Regent swimming complex.

3.15 Due to the support agreed and provided to Freedom Leisure as the city's leisure contractor it was recommended that officers reviewed the ongoing situation on a regular basis through income and expenditure accounts and provided an update report to Committee in 2023 outlining the impact of the mitigation measures and associated financial position.

3.16 In November 2022 Sport England also announced a small grant programme in England for local authorities to spend on consultancy support to help assess the utilities position and the risks and issues in relation to contracted services and the associated financial stability.

3.17 Further to a successful expression of interest the council were invited to submit an application. In March 2023 the council was advised that it had been awarded a small grant of £5K.

3.18 FMG Consultancy who had previously provided consultancy support for the Sports Facilities Investment Plan were on the associated Sport England Consultancy Framework and were directly appointed.

3.19 FMG's brief was to provide an independent review assessing the ongoing financial position and operational picture surrounding the leisure facilities contract, specifically in relation to the challenges with the energy crisis and other factors affecting service delivery. The council requested that the review outlined the current and future risks, and whether further support would be required, and when, to mitigate the contractual risk around delivery of our leisure centres as well as the broader picture within the leisure sector.

- 3.20 Following an initial meeting in March 2023 FMG Consulting undertook a full review of Freedom Leisure’s monthly income and expenditure positions throughout 2022/23, the mitigation measures agreed and implemented over that period and the impact of those in relation to the financial stability and ongoing viability of the contract. They were also asked to consider the impact of an unplanned closure of the King Alfred Leisure Centre between January – March 2023 due to the major failure of the boilers linked to the control panel.
- 3.21 The report was finalised in July 2023 (as required by the grant terms and conditions) and enabled a thorough assessment of 2022/23 year end position and predictions for 2023/24 based on the figures provided for April and May 2023.
- 3.22 In summary they concluded that:
- “the implementation of interventions has been an excellent approach to addressing this problem of increasing energy costs. Some other authorities have simply contributed financially to the energy costs, and some have enforced their contractual terms with their operator and offered no financial support at all, but this Council has been wise to develop a range of well thought through interventions that have offset the fiscal impact on the contract.”*
- 3.23 In the March 2023 Budget the government also announced a financial package for public swimming pools totalling £63 million across England. £20 million was allocated to support energy cost implications preventing closure of facilities and £40 million for decarbonisation programmes. This fund was called the Swimming Pool Support Fund (SPSF).
- 3.24 In June 2023, the government in conjunction with Sport England announced the methodology for local authorities to enter into a competitive process to bid for part of the Phase 1 £20 million fund. The criteria was very clear in relation to the application and ongoing monitoring and evaluation requirements. Amongst other stipulations, bids would only be considered for those facilities providing sessional public ‘pay and play’ swimming opportunities.
- 3.25 Working closely with Freedom Leisure, officers applied to the fund to help prevent the closure and ensure the continued operation of the 3 public swimming pools in the city. The fund was specifically focussed on subsidising increased utility costs and associated pool water chemical costs. Successful applications are due to be announced shortly.
- 3.26 The second phase for the bidding and application process for the allocation of the £40 million capital/decarbonisation fund closed mid October 2023 and officers have submitted a bid. The decision on whether local authorities have been successful will be made by the end of January 2024.

3.27 Due to the success of the mitigations, energy reduction capital projects, additional grant funding and associated positive business position Freedom Leisure have already started to reinstate some of the interventions.

3.28 To date these include:

- The appointment and recruitment to some of the long term vacant staff posts – most notably the General Manager at Portslade Sports Centre and contract Technical Assistant post.
- Ongoing changes/increases to opening hours based on demand.

3.29 By the end of the 2023/2024 financial year it is anticipated that:

- The full 2023/2024 contract management fee will be paid to the council
- The payment holiday for the solar electricity at Withdean Sports Complex and Stanley Deason leisure Centre will come to an end.

3.30 In 2024/2025 it is anticipated that Freedom Leisure and the council will be back to the contractual position. There will therefore also be shared net income to be paid to the council from planned capital developments. This includes the new padel facility, small sided 3G pitches and soft play development at Withdean Sports Complex which when delivered will support the council's challenging financial position.

4. Analysis and consideration of alternative options

4.1 N/A

5. Community engagement and consultation

5.1 N/A - as this is an update report.

6. Conclusion

6.1 Previously agreeing the implementation of the proposed mitigation measures in light of the challenging financial position in relation to the national energy crisis was a sensible and pragmatic approach by the council to enable the continued operation of the Sports Facilities Contract by Freedom Leisure.

7. Financial implications

7.1 Incomes to the council from Freedom Leisure previously waived or on a payment holiday are anticipated to be reinstated as outlined in paragraph 3.29. Where amounts are received both within this financial year and future years it will be reflected as part of the council's monthly budget monitoring process supporting the councils challenging financial position.

- 7.2 Depending on the financial position of the council at outturn, any surplus incomes to budget can be allocated to the sport facilities reserve to support the Sports Facilities Investment Plan.

Name of finance officer consulted: John Lack Date consulted: 24/10/2023

8. Legal implications

- 8.1 The previously agreed variation to the Management Fee and other changes to services were permissible under the Public Contract Regulations 2015. There are no legal implications arising from this report which is for noting.

Name of lawyer consulted: Elizabeth Culbert Date consulted 27/10/2023

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 closed 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 and Hove and is provided by Freedom Leisure with discounts of up to 40% providing a lower cost way of accessing the sports facilities both on a pay and play and member basis. The membership cost was held for 2023/24 and lower than the inflationary increases applied to activities.
- 9.4 Not appointing to the vacant Active Communities Manager was a concern and had 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 now been re-advertised. New SEND sessions have still been added into various site programmes by Freedom Leisure with extensive support from the Sports Facilities Team along with Partners including Amaze, and Parent Carers (PACC). New sessions delivered include free holiday activity sessions over the Summer 2023 and recent October half term holidays.

10. Sustainability implications

- 10.1 As part of the mitigation measures 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 Three replacement LED lighting projects have also been delivered over summer 2023, funded from the council's Carbon Neutral Fund with will

continue to improve both the sustainability and financial performance of the sites.

- 10.3 A recent application by Property and Design colleagues has also been made to the Public Sector Decarbonisation Scheme (PSDS) following site energy audits and assessments.
- 10.4 Solar photovoltaic systems have already been implemented at two of the leisure sites to reduce the reliance of energy from the National Grid. Further installations (pending structural investigations) are also now planned at other sites such as Prince Regent Swimming Complex, Portslade Sports Centre and Moulsecoomb Community Leisure Centre. This would be a huge benefit – especially at PRSC where the PV will support the huge requirement for energy to operate the swimming pools.
- 10.5 Capital funded projects replacing the old inefficient boilers at St Lukes Swimming Pool and Prince Regent Swimming Complex have also been delivered and a new boiler control panel has been installed at King Alfred.
- 10.6 Applying for Phase 2 of the Swimming Pool Support Fund could also help in relation to improved sustainability of the leisure facilities.
- 10.7 Other ongoing measures to be delivered by Freedom Leisure include:
 - Environmental awareness training for staff
 - Following and implementing guidance provided by governing bodies such as Sport England, UK Active and Swim England.

11. Other Implications

Social Value and procurement implications

11.1 N/A

Crime & disorder implications:

11.2 N/A

Public health implications:

- 11.3 The sports facilities in the city are a vital provision enabling regular participation in sport and physical activity. There is a growing awareness and evidence relating to the importance of regular participation in sport and physical activity for people's health and well-being.
- 11.4 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 including the seafront (blue spaces) and parks (green spaces). The sports and leisure facilities operated by Freedom Leisure on behalf of the council provides opportunities for our residents to follow active and healthy lifestyles.

Supporting Documentation

1. Appendices

1. N/A

2. Background documents

1. TECC and P&R Committee Reports

[Brighton & Hove City Council - Agenda for Tourism, Equalities, Communities & Culture Committee on Thursday, 3rd November, 2022, 4.00pm \(brighton-hove.gov.uk\)](#)

[Brighton & Hove City Council - Agenda for Policy & Resources Committee on Thursday, 1st December, 2022, 4.00pm \(brighton-hove.gov.uk\)](#)

